



# **2001 Legislative Implementation Plan**

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August 2001  
Publication No. 01-01-001

# 2001 Legislative Implementation Plan

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Washington State Department of Ecology  
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## **ENGROSSED HOUSE BILL 1015**

*Prohibiting methyl tertiary-butyl ether as a gasoline additive*

### **PROGRAM IMPACTS**

This bill adds a new section to chapter 19.112 RCW that is administered by the Department of Agriculture, Weights and Measures. The bill declares that methyl tertiary-butyl ether may not be intentionally added to any gasoline, motor fuel, or clean fuel produced for sale or use in the state of Washington after December 31, 2003, and in no event may methyl tertiary-butyl ether be knowingly mixed in gasoline above six-tenths of one percent by volume.

This bill places no requirements and/or expectations on the Department of Ecology. The Department of Agriculture, Weights and Measures is responsible to implement this act.

### **RESOURCE IMPACTS**

There is no revenue and resources provided to implement the bill and there is no negative impact on Ecology.

### **WORK PLAN**

The Department of Agriculture, Weights and Measures is responsible to implement this act.

Ecology will notify UST owners of this new requirement by mail.

**Contact person:** Barry Rogowski – Toxics Cleanup Program  
Phone: (360) 407-7236; E-mail: brog461@ecy.wa.gov

# FINAL BILL REPORT

## EHB 1015

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C 218 L 01

Synopsis as Enacted

**Brief Description:** Prohibiting methyl tertiary-butyl ether as a gasoline additive.

**Sponsors:** Representatives Pennington, Mielke, Schindler, Ogden, Esser, Ruderman, Linville, Pearson, Ericksen, Morell and Talcott.

**House Committee on Agriculture & Ecology**  
**Senate Committee on Environment, Energy & Water**

### **Background:**

The Clean Air Act is a federal law enacted in 1970 to create a nationwide framework for controlling air pollution. In 1990 Congress added significant amendments to the Clean Air Act aimed at improving air quality in metropolitan areas that violate health-based standards. The 1990 amendments set acceptable standard levels for various air pollutants, including ozone, carbon monoxide (CO), and toxins. If the presence of a pollutant exceeds the acceptable level in a metropolitan area, the United States Environmental Protection Agency (US EPA) designates that area a “nonattainment area.” Nonattainment areas are subject to federal, state, and local regulations aimed at reducing the amount of the pollutant in the air. Nonattainment status has been applied to metropolitan areas nationwide, including New York City, Los Angeles, Cleveland, and Spokane.

The Clean Air Act Amendments require that gasoline sold in CO nonattainment areas contain at least 2.7 percent oxygen. CO pollution results from the incomplete combustion of fuel, and 80 percent of CO pollution is generated from motor vehicles. Higher oxygen content in gasoline, which helps the fuel burn with fewer harmful emissions, can be achieved by the addition of oxygenates such as ethanol or methyl tertiary-butyl ether (MTBE). Refiners decide which oxygenate is used to produce cleaner burning gasoline. Some refineries in the United States have increased octane levels and engine efficiency by adding MTBE, a derivative of natural gas, to their gasoline.

The US EPA has issued a health advisory regarding oral consumption of MTBE. Although no data regarding the health effects of MTBE on humans are available, the California Environmental Protection Agency (CAL/EPA) has shown that long term exposure to the chemical causes cancer in laboratory rats and mice. The US EPA lists MTBE as a possible human carcinogen. MTBE has been found in public drinking water supplies in California,

Colorado, Iowa, Illinois, New Jersey, and Texas. The CAL/EPA reports that MTBE may invade drinking water wells and reservoirs through leaking underground storage tanks and pipelines.

After discovering MTBE in its drinking water, California began phasing the chemical out of that state's gasoline. California has prohibited the sale of any gasoline produced with the use of MTBE by December 31, 2002, and prohibits the sale of any gasoline containing more than 0.05 volume percent MTBE by December 31, 2004.

In Washington, Spokane is the only serious CO nonattainment area listed by the US EPA. Thus, only Spokane is mandated to use oxygenated fuels. The Washington Department of Ecology (DOE) reports that Washington refiners have used ethanol, not MTBE, as an oxygenate in the Spokane area. The DOE has no evidence that MTBE is being added as part of Washington's oxygenated fuel program; however, they cannot report that MTBE is absent from Washington's gasoline in the form of an octane booster for premium grades. The DOE samples at oil spill sites have detected the presence of MTBE.

Washington law contains no prohibitions or restrictions on MTBE. However, violators of the Motor Fuel Quality Act are subject to a misdemeanor conviction and a civil fine of up to \$10,000.

### **Summary:**

After December 31, 2003, the intentional addition of methyl tertiary-butyl ether (MTBE) to gasoline, motor fuel, or clean fuel for sale or use in Washington is prohibited. The MTBE may not be knowingly mixed in gasoline above six-tenths of 1 percent by volume.

### **Votes on Final Passage:**

House	95	0	
Senate	47	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 1015 (2001-02)**

Brief Description: Prohibiting methyl tertiary-butyl ether as a gasoline additive.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: EHB 1015  
Description: FINAL PASSAGE  
Item No.: 1  
Transcript No.: 37  
Date: 02-13-2001

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting  
yea: Representatives Ahern, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Scott, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Alexander, Cody, O'Brien

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: EHB 1015  
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 33  
Transcript No.: 95  
Date: 04-12-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting  
yea: Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli



Excused: Senators Deccio, Haugen

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**2001 Regular Session**

Chamber: HOUSE  
Bill No.: EHB 1015  
Description: FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 10  
Transcript No.: 103  
Date: 04-20-2001

Yeas: 92 Nays: 00 Absent: 00 Excused: 06

Voting  
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Darneille, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp  
Excused: Representatives Crouse, DeBolt, Edwards, Eickmeyer, Kenney, Lambert



## **HOUSE BILL 1035**

*Extending a program of steelhead recovery in certain counties*

### **PROGRAM IMPACTS**

This bill extends the life of the Lower Columbia Fish Recovery Board from 2001 to 2006. Ecology has a role as a member of the Board's Technical Advisory Committee (TAC) which typically meets for one day a month.

### **RESOURCE IMPACTS**

The membership and participation on the TAC takes approximately 0.2 FTE. This is not a new resource commitment in that Ecology has been represented on the TAC for 2.5 years. Membership and participation on the TAC has been built into the Lower Columbia watershed lead's job duties.

### **WORK PLAN**

There are no adjustments to workplan, or new hires, or new timelines to establish with the passage of this bill.

**Contact person:** Tom Loranger – Shoreland Environmental Assessment Program

Phone: (360) 407-6058; E-mail: [tlor461@ecy.wa.gov](mailto:tlor461@ecy.wa.gov)

# FINAL BILL REPORT

## HB 1035

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C 135 L 01

Synopsis as Enacted

**Brief Description:** Extending a program of steelhead recovery in certain counties.

**Sponsors:** Representative Pennington.

**House Committee on Natural Resources**

**Senate Committee on Natural Resources, Parks & Shorelines**

### **Background:**

In 1998 the Legislature created a pilot program for steelhead recovery in southwestern Washington. This pilot program established a management board for the area designated as evolutionarily significant unit 4 by the National Marine Fisheries Service (NMFS), covering Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties.

The management board is responsible for assisting in the development of a recovery plan and for implementing the habitat portions of the Lower Columbia Steelhead Conservation Initiative approved by the state and the NMFS. The management board is also authorized to address other aquatic species listed under the Endangered Species Act. The management board acts as both a lead entity and a committee for purposes of applying for salmon habitat grants from the Salmon Recovery Funding Board.

The management board consists of the following 15 voting members: a county commissioner from each of the five participating counties; one state legislator elected from one of the legislative districts in the area covered; a representative of the Cowlitz Tribe; one representative of the cities located in the area covered; one representative of hydro utilities; one representative of the environmental community who resides in the area; and five representatives of private property interests. The board is required to appoint and consult with a technical advisory committee.

This pilot program terminates on July 1, 2002.

### **Summary:**

The management board created to implement the steelhead recovery program for southwestern Washington is extended until July 1, 2006. References to the program being a pilot program are deleted.

**Votes on Final Passage:**

House	98 0
Senate	45 0

**Effective:** August 1, 2001

### **Roll Calls on a Bill: 1035 (2001-02)**

Brief Description: Extending a program of steelhead recovery in certain counties.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: HB 1035  
Description:  
Item No.: 5  
Transcript No.: 46  
Date: 02-22-2001

Yeas: 98 Nays: 00 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: HB 1035  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 7  
Transcript No.: 94  
Date: 04-11-2001

Yeas: 45 Nays: 00 Absent: 01 Excused: 03

Voting yea: Senators Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Thibaudeau, West, Winsley, Zarelli  
Absent: Senator Benton  
Excused: Senators Haugen, McCaslin, Swecker

## **SUBSTITUTE HOUSE BILL 1136**

*Regarding product standards*

### **PROGRAM IMPACTS**

The Department of General Administration (GA) is to adopt product standards for strawboard that's manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed.

### **RESOURCE IMPACTS**

No resources were provided for Ecology to assist GA development of product standards for strawboard. Existing staff will work with GA to provide technical assistance toward the development of strawboard product standards.

### **WORK PLAN**

As needed, existing staff will assist GA in developing and implementing product standards for strawboard.

Contact person: **Jay Shepard – Solid Waste & Financial Assistance Program**  
**Phone: (360) 407-6071; E-mail: jshe461@ecy.wa.gov**

# FINAL BILL REPORT

## SHB 1136

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C 77 L 01

Synopsis as Enacted

**Brief Description:** Regarding product standards.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler, Wood, Ahern, Gombosky, Cox, Grant, Doumit, G).

**House Committee on Agriculture & Ecology**  
**Senate Committee on Environment, Energy & Water**

### **Background:**

The federal Resource Conservation and Recovery Act as amended requires the Environmental Protection Agency (EPA) to prepare guidelines for the procurement by federal agencies of items containing recovered materials. The guidelines adopted by the EPA designate items that are or can be made with recovered materials and whose procurement by agencies will carry out the objectives of the federal Act, as determined by the EPA.

The EPA's product standards for a number of materials have been adopted by statute for state purchases, unless the director of the Department of General Administration finds that different standards would significantly increase recycled product availability or competition. Included among these products standards are those for building insulation. These standards apply to recycled product purchasing by state agencies and may be used by local governments in making purchases.

### **Summary:**

By July 1, 2001 the director of the Department of General Administration must adopt product standards for strawboard and for products made from strawboard. The straw in the strawboard must be that produced as a by-product in the production of cereal grain or turf or grass seed. The list of products for which the product standards of the EPA are adopted by reference, unless modified as authorized, includes all building products and materials, not just building insulation.

The state entities that make their recycled product purchases in conformity with these standards now expressly includes state postsecondary educational institutions.



**Votes on Final Passage:**

House	98 0
Senate	46 0

**Effective:** July 1, 2001

### **Roll Calls on a Bill: 1136 (2001-02)**

Brief Description: Regarding product standards.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SHB 1136  
Description:  
Item No.: 7  
Transcript No.: 51  
Date: 02-27-2001

Yeas: 98 Nays: 00 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SHB 1136  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 27  
Transcript No.: 89  
Date: 04-06-2001

Yeas: 46 Nays: 00 Absent: 00 Excused: 03

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli  
Excused: Senators Deccio, Snyder, West

## **SUBSTITUTE HOUSE BILL 1163**

*Changing provisions relating to disposal of garbage and junk vehicles*

### **PROGRAM IMPACTS**

This bill stiffens the penalty associated with littering and abandoning junk vehicles by changing it from a class one civil infraction to a misdemeanor, which should serve as a deterrent. The bill would apply to all property within the state.

There are no program impacts. Implementation of this bill will be the responsibility of local government.

### **RESOURCE IMPACTS**

There are no resource impacts on Ecology.

### **WORK PLAN**

Local government would be responsible for implementing this bill.

**Contact person:** Jay Shepard – Solid Waste & Financial Assistance Program  
Phone: (360) 407-6071; E-mail: [jshe461@ecy.wa.gov](mailto:jshe461@ecy.wa.gov)

# FINAL BILL REPORT

## SHB 1163

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C 139 L 01

Synopsis as Enacted

**Brief Description:** Changing provisions relating to disposal of garbage and junk vehicles.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Eickmeyer, Doumit, Rockefeller, Jackley and Haigh).

**House Committee on Agriculture & Ecology**  
**Senate Committee on Natural Resources, Parks & Shorelines**

### **Background:**

A person violating the state litter or vehicle abandonment laws faces different penalties depending on whether the violation occurs in unincorporated or incorporated areas of a county. Littering more than one cubic foot of trash within the incorporated area is a class 1 civil infraction punishable by a \$250 fine. In addition to the civil infraction, a \$25 litter cleanup fee for every cubic foot of litter deposited and a court order to pick up the litter may be entered.

In an unincorporated area, littering in excess of one cubic foot, but less than one cubic yard, is a misdemeanor and littering greater than one cubic yard is a gross misdemeanor. In both cases, the violator must pay a litter restitution payment equal to twice the actual cost of cleanup. This restitution payment may not be less than \$50 for those littering less than one cubic yard or less than \$100 for those littering over one cubic yard. One-half of this restitution payment is distributed to the law enforcement agency investigating the incident, and one-half is distributed to the affected landowner. First-time offenders in an unincorporated area may have restitution payments waived if they agree to clean up the litter.

A similar distinction exists for junk vehicles that are abandoned in incorporated and unincorporated portions of counties. Abandoning a junk vehicle on property located within the incorporated area is class 1 civil infraction. The maximum penalty for this violation is a \$250 fine and reimbursement to the landowner for any costs associated with the vehicle's removal. Abandoning a junk vehicle on property located in the unincorporated county is a gross misdemeanor. The maximum penalty for this violation is a cleanup restitution of twice the costs incurred in the junk vehicle's removal. One half of the restitution payment is distributed to the affected land owner, and one-half is distributed to the state entity investigating the incident.

## **Summary:**

Penalties for littering or abandoning junk vehicles are the same in the unincorporated area and the incorporated portions of a county. The penalties for all littering and junk vehicle violations are modified as follows:

### 1) Littering:

- Up to one cubic foot is a class 3 civil infraction (\$50 fine).
- Between one cubic foot and one cubic yard is a misdemeanor (litter cleanup restitution of twice the actual cleanup cost, not less than \$50, may also be ordered with one-half to affected landowner and one-half to investigating enforcement agency).
- Over one cubic yard is a gross misdemeanor (litter cleanup restitution of twice the actual cleanup costs, not less than \$100, may also be ordered with one-half to affected landowner and one-half to investigating enforcement agency).

### 2) Abandoning a junk vehicle:

- Gross misdemeanor (cleanup restitution payment of twice the cost to remove the junk vehicle, may also be ordered with one-half to the affected landowner and one-half to the investigating enforcement agency).

## **Votes on Final Passage:**

House	98 0
Senate	48 0

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 1163 (2001-02)**

Brief Description: Changing provisions relating to disposal of garbage and junk vehicles.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SHB 1163  
Description:  
Item No.: 9  
Transcript No.: 51  
Date: 02-27-2001

Yeas: 98 Nays: 00 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SHB 1163  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 44  
Transcript No.: 92  
Date: 04-09-2001

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Excused: Senator McDonald

## **SUBSTITUTE HOUSE BILL 1349**

*Authorizing a funding mechanism for removal and disposal of derelict vessels*

### **PROGRAM IMPACTS**

The removal of hazardous substances from derelict or abandoned vessels would be eligible for funding from the Local Toxics Control Account. The bill does not give priority to this activity, therefore this activity would have to compete with all other eligible activities for Local Toxics Control Account funding.

### **RESOURCE IMPACTS**

Impacts of this bill will be handled by existing staff. The Local Toxics Control Account funding level per biennium is determined by legislative appropriation. This bill would add one more eligible activity to the list of activities that could receive funds from the account. Existing staff would process any additional fund (grants) requests that may be submitted.

### **WORK PLAN**

Two activities are necessary to implement this legislation. First, the Remedial Action Grant Guidelines will be updated to reflect that cleanup of hazardous substances from abandoned or derelict vessels would be grant eligible. NOTE: Each biennium the grant guidelines are updated. The eligible activities list is just one area that will be addressed in the guideline update.

The second activity necessary to implement this legislation requires that chapter 173-322 WAC, Remedial Action Grants & Loans must be updated to identify hazardous substances cleanup on abandoned or derelict vessels is an eligible activity. NOTE: this rule is currently being updated, therefore the rule changes required by SHB 1349 will be incorporated into this update process.

#### Timeline

Remedial Action Grant Guidelines update	July 2001
Chapter 173-322 WAC rule update	
Planning phase (CR-101 filing)	Nov. 2001
Drafting phase	July 2002
Comments/objections phase (CR-102 filing)	October 2002

Adoption phase (CR-103 filing)  
Implementation phase

December 2002  
January 2003

Existing staff will be used to implement this legislation.

**Contact person:** Jay Shepard – Solid Waste & Financial Assistance Program  
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# FINAL BILL REPORT

## SHB 1349

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C 27 L 01

Synopsis as Enacted

**Brief Description:** Authorizing a funding mechanism for removal and disposal of derelict vessels.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Kessler, Buck, Morris, Sehlin, Linville and Rockefeller).

**House Committee on Appropriations**  
**Senate Committee on Environment, Energy & Water**

### **Background:**

The State Toxics Control Account and the Local Toxics Control Account were created by the Legislature during the 1988 session and subsequently affirmed by the voters with the passage of Initiative 97, the Model Toxics Control Act, in November 1988. The main purpose of the Model Toxics Control Act is to raise sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters.

The primary source of revenue to the accounts is the hazardous substances tax, a privilege tax on the first possession of hazardous substances in the state. Fifty-three percent of hazardous substance tax receipts are deposited in the Local Toxics Control Account and 47 percent of receipts are deposited in the State Toxics Control Account. Revenues to the Local Toxics Control Account are estimated to be \$61.0 million for the 1999-01 biennium.

Moneys deposited in the Local Toxics Control Account are used for grants or loans to local governments for the following purposes, in descending order of priority:

- (1) remedial actions to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including investigations, health assessments, and monitoring;
- (2) hazardous waste plans and programs; and
- (3) solid waste plans and programs.

**Summary:**

Local governments are eligible to apply for Local Toxics Control Account grants or loans for the cleanup and disposal of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment. Abandoned or derelict vessels are defined as having little or no value and either no identified owner or an owner lacking financial resources to clean up and dispose of the vessel. The cleanup of derelict vessels follows remedial actions, hazardous waste planning, and solid waste planning in funding priority.

**Votes on Final Passage:**

House	92	1
Senate	47	0

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 1349 (2001-02)**

Brief Description: Authorizing a funding mechanism for removal and disposal of derelict vessels.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SHB 1349  
Description:  
Item No.: 93  
Transcript No.: 61  
Date: 03-09-2001

Yeas: 92 Nays: 01 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunshee, Edmonds, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, McDermott, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Voting nay: Representative Dunn

Excused: Representatives Casada, Edwards, Mastin, McIntire, Schindler

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SHB 1349  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 3  
Transcript No.: 87  
Date: 04-04-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B.,

Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West,  
Winsley, Zarelli

Excused: Senators Deccio, McDonald

## **ENGROSSED HOUSE BILL 1350**

*Changing water right appeals procedures for rights subject to a general stream adjudication*

### **PROGRAM IMPACTS**

This bill does not create any substantial new work for the Department of Ecology. Rather it clarifies a previously ambiguous issue of the proper venue for appeals of water rights decisions pertaining to water rights that are subject to an active and ongoing general adjudication of water rights. The provisions of the bill will be incorporated into a proposed pre-trial order in the Yakima Basin water rights adjudication. This should clarify procedures in the adjudication relating to appeals of water right changes and transfers. This will require some time by Ecology's attorneys but less than would have been required if litigation resulted without the clarifications provided by the Act.

### **RESOURCE IMPACTS**

The bill will have no significant impact on agency resources or workload, although in theory the process for appeals specified in the bill could result in some savings of time and expense for Ecology and the Attorney General in answering appeals of agency water right decisions. Without the bill, there was a potential for a lengthier and repetitive appeals process. Ecology's attorneys will offer amendments to a proposed pre-trial order to incorporate the clarification of the appropriate appeals venue as provided by the Act.

### **WORK PLAN**

Ecology will immediately and hereafter work with the Attorney General's Office, plaintiffs, the Pollution Control Hearings Board and the County Superior Courts to assure that appeals are brought before the appropriate judicial body as specified in the Act. Ecology will work with its attorneys to get the provisions of the Act incorporated into a pre-trial order.

No hiring will be required to implement the Act and any actions to be taken cannot be predicted as to timing due to the unpredictable nature of the filing of appeals. What little work that needs to be done will be done by existing agency staff and attorneys.

**Contact person:** Ken Slattery – Water Resources Program  
Phone: (360) 407-6603; E-mail: kshw461@ecy.wa.gov

# FINAL BILL REPORT

## EHB 1350

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C 220 L 01

Synopsis as Enacted

**Brief Description:** Changing water right appeals procedures for rights subject to a general stream adjudication.

**Sponsors:** By Representatives G. Chandler and Linville.

**House Committee on Agriculture & Ecology**  
**Senate Committee on Environment, Energy & Water**

### **Background:**

The Surface Water Code has established a means by which the various existing rights to surface water from a water body may be adjudicated in court to determine the validity of claims to water rights and to identify the amounts of water to which each person with a right is entitled, the order of priority (seniority) of those rights, and other aspects of the rights. It is called a general adjudication of water rights and is analogous to a quiet title action involving various claims of land ownership in a particular area. The Ground Water Code applies this procedure to determining rights to ground water as well. The rights subject to such an adjudication proceeding include all rights to use the water, including diversionary and instream uses and water rights of the United States. Federal law authorizes the water rights of the United States to be adjudicated in state court if certain findings are made by a federal court. A general adjudication proceeding for water rights has been underway for surface water rights in the Yakima River watershed since the late 1970s.

In such a general adjudication proceeding, the Department of Ecology (DOE) acts as a referee for the superior court conducting the proceeding. Although the Pollution Control Hearings Board (PCHB) generally has jurisdiction to review appeals of the decisions of the DOE, that jurisdiction does not apply to proceedings of the department relating to such a general adjudication proceeding.

### **Summary:**

The jurisdiction of the PCHB is altered regarding actions related to general adjudication proceedings for water rights. Excluded from the jurisdiction of the PCHB are such general adjudication proceedings that are conducted by the DOE, rather than proceedings of the DOE that are simply related to such general adjudications. Once the PCHB has reviewed a decision of the DOE

regarding transfers or changes of existing water rights that are themselves subject to a general adjudication proceeding for water rights, any petition for obtaining superior court review of the PCHB's decision must be filed directly with the superior court conducting the general adjudication. The petition for review must be consolidated with the general adjudication.

Special rules are established for any review of change or transfer decisions made by the DOE for rights that are subject to a general adjudication proceeding that was begun before October 13, 1977. If the appeal includes a challenge to the DOE's tentative determinations regarding the validity and extent of the water right being changed or transferred, the court's review is de novo. If the appeal includes a challenge to a part of the DOE's decisions other than those regarding the validity and extent of the water right, that part must be certified by the court to the PCHB for the board's review and decision. The PCHB's review must be scheduled to afford all parties full opportunity to participate before the court and the board.

The decision of the PCHB may be appealed to the court conducting the general adjudication proceeding. A party to the general adjudication is a party to such an appeal of the PCHB's decision only if the party files or is served with a petition for review. Standing to appeal is not limited to the parties to the general adjudication proceeding.

The provisions of this act do not affect or modify any rights of an Indian tribe, or the rights of a federal agency or other entity arising under federal law. Nothing in the act may be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court.

**Votes on Final Passage:**

House	89	5	
Senate	44	1	(Senate amended)
House	83	0	(House concurred)

**Effective:** May 9, 2001

### **Roll Calls on a Bill: 1350 (2001-02)**

Brief  
Description: Changing water right appeals procedures for rights subject to a general stream adjudication.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: EHB 1350  
Description: FINAL PASSAGE  
Item No.: 1  
Transcript No.: 93  
Date: 04-10-2001

Yeas: 89 Nays: 05 Absent: 00 Excused: 04

Voting  
yea: Representatives Ahern, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Doumit, Dunn, Edmonds, Eickmeyer, Ericksen, Esser, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Jackley, Jarrett, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Voting  
nay: Representatives Dickerson, Fisher, Kagi, McIntire, Romero

Excused: Representatives Alexander, Dunshee, Edwards, Hurst

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: EHB 1350  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 7  
Transcript No.: 104  
Date: 04-21-2001

Yeas: 44 Nays: 01 Absent: 00 Excused: 04

Voting  
yea: Senators Carlson, Constantine, Costa, Deccio, Eide, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli



Voting      Senator Fairley  
nay:  
Excused: Senators Benton, Brown, Kastama, Regala

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**2001 Regular Session**

Chamber:              HOUSE  
Bill No.:              EHB 1350  
Description:          FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.:              1  
Transcript No.:       105  
Date:                   04-22-2001

Yeas: 83 Nays: 00 Absent: 00 Excused: 15

Voting      Representatives Ahern, Alexander, Anderson, Armstrong, Barlean, Benson,  
yea:          Berkey, Buck, Bush, Cairnes, Carrell, Casada, Chandler, B., Chandler, G.,  
                Clements, Cody, Conway, Cooper, Cox, Darneille, Delvin, Dickerson, Doumit,  
                Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher,  
                Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley,  
                Jarrett, Kagi, Keiser, Kessler, Lantz, Linville, Lisk, Lovick, Marine, Mastin,  
                McDermott, McMorris, Miloscia, Mitchell, Morell, Morris, O'Brien, Ogden,  
                Pearson, Pennington, Pflug, Quall, Reardon, Roach, Rockefeller, Romero,  
                Ruderman, Santos, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner,  
                Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods,  
                Speaker Ballard, and Speaker Chopp  
Excused: Representatives Ballasiotes, Boldt, Campbell, Crouse, DeBolt, Kenney,  
                Kirby, Lambert, McIntire, Mielke, Mulliken, Murray, Poulsen, Schindler,  
                Schmidt, D.



## **ENGROSSED SUBSTITUTE HOUSE BILL 1785**

*Implementing the recommendations of the joint legislative audit and review committee report regarding capital budget programs investing in the environment*

### **PROGRAM IMPACTS**

The bill directs natural resource agencies (including the Department of Ecology) to implement the recommendations of the Joint Legislative Audit and Review Committee (JLARC) report on capital budget programs that are investing in the environment. The Legislature has recognized a public interest in determining the performance of projects and programs to allow for better targeting of resources. Further, the Legislature has determined there is a need to improve the data and to integrate data collected by state agencies in order to better measure the outcomes of projects and programs. OFM has been asked to assist state environmental agencies in the development of outcome focused performance measures for administering natural resource related grant and loan programs.

The Department of Ecology's activities will involve two programs - the Water Quality Program, and the Solid Waste and Financial Assistance Program.

Specifically, two main issues in this legislation impact Ecology:

1. *...the department shall require recipients to incorporate the environmental benefits of the project into their applications ... in its grant and loan prioritization and selection process...*

The JLARC report agrees that Ecology already does this well, however steps will be taken to further bolster existing efforts.

2. *The department shall also develop appropriate outcome focused performance measures ... coordinate ... with other natural resource-related agencies ... consult with affected interest groups...*

Measuring short-term impacts of grants and loans, predicting their long-term impacts on the environment, and identifying measurable outcomes will be a challenge, especially without new resources. Funding for monitoring at this level is not currently available.

### **RESOURCE IMPACTS**

Proper short-term implementation will require training, and internal and external coordination. Probable implementation steps include policies, procedures, guidelines, and rule amendments. Longer-term changes to business practices

will have negative impacts on the amount of time available to assist individual applicants and projects.

Finally, the provisions of the bill are likely to have a resource impact on grant and loan recipients, using some of their financial assistance or of their own resources to track the long-term outcomes of the funded projects. This could, in turn, affect the amount of funding available to spend on new projects.

It is imperative to note that in the absence of new resources, the resources required to make the desired changes will affect the Agency's ability to accomplish other activities. The resource limits will be most apparent in what monitoring work can be accomplished within the very limited budgets available for this purpose.

## **WORK PLAN**

The Water Quality Program and the Solid Waste & Financial Assistance program have developed the following workplans:

### **WATER QUALITY PROGRAM**

1. Meet internally to identify players
2. Meet with other agencies, including OFM, to determine how to proceed
3. Identify needed training
4. Develop / contract for training if needed
5. Conduct training if needed
6. Work internally in program
7. Work to design systems, decide on methodology
8. Coordinate with other impacted parties, including Financial Assistance Council, Water Quality Program Management Team, and Water Quality Program staff
9. Produce report - water quality portion, shared portions with other groups
10. Submit report to Legislature by July 31, 2002
11. In future, implement as identified in report, including rule amendment if needed

### **Projected timeline to accomplish requirements of the bill:**

Fourth Quarter FY 01	<ul style="list-style-type: none"><li>• Meet internally to identify players</li><li>• Meet with other agencies, including OFM</li></ul>
First Quarter FY 02	<ul style="list-style-type: none"><li>• Identify needed training</li><li>• Develop / contract for /conduct training</li></ul>

Second and Third Quarters FY 02	<ul style="list-style-type: none"> <li>• Design systems, decide on methodology</li> </ul>
Third Quarter FY 02	<ul style="list-style-type: none"> <li>• Produce water quality and Ecology portions of report</li> </ul>
Fourth Quarter FY 02	<ul style="list-style-type: none"> <li>• Help develop combined report from all impacted agencies</li> </ul>
First Quarter FY 03	<ul style="list-style-type: none"> <li>• Submit report to Legislature</li> </ul>

### SOLID WASTE & FINANCIAL ASSISTANCE PROGRAM

In FY02 the Solid Waste & Financial Assistance Program will:

Develop grant program outcome focused performance measures for three grant programs: the Remedial Action Grant & Loan Program, the Public Participation Grant Program, and the Coordinated Prevention Grant Program. (Grant programs funded from chapter 70.105D RCW as referenced in section 5 of the bill.)

- Conduct stakeholder involvement process for each grant program;
- Plan and recommend specific changes in the existing guidelines and rules for each grant program to incorporate the outcome focused performance measures; and
- Coordinate with other affected programs and agencies, and prepare our part of the report to the Legislature.

In FY03 the Solid Waste & Financial Assistance Program will:

Amend chapter 173-312 WAC, 173-321 WAC, and 173-322 WAC to reflect those recommendations and specific guidelines.

Proposed hiring plan:

No new hiring is expected to occur.

#### **Contact person:**

Steve Carley - Water Quality Program

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Jay Shepard - Solid Waste & Financial Assistance Program

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# FINAL BILL REPORT

## ESHB 1785

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C 227 L 01

Synopsis as Enacted

**Brief Description:** Implementing the recommendations of the joint legislative audit and review committee report regarding capital budget programs investing in the environment.

**Sponsors:** By House Committee on Natural Resources (originally sponsored by Representatives Murray, Alexander, Doumit, Rockefeller, Esser, Sump, Kenney and McIntire).

**House Committee on Natural Resources**

**House Committee on Capital Budget**

**Senate Committee on Environment, Energy & Water**

**Senate Committee on Ways & Means**

### **Background:**

The Joint Legislative Audit and Review Committee (JLARC) reviewed 12 capital budget programs administered by six agencies that provide grants and loans to local governments and other entities for environmental quality purposes. The audit noted that the amount of funding provided for these programs has been growing as well as the requests for program funding.

The JLARC final report 01-1 focused on the distinction between distributing versus investing money under these programs. Under an investment approach, information is gathered to determine whether the investments have been effective, and this information is integrated into the decision-making process. Without measurable returns, however, it is difficult to determine whether the investments have been effective. The JLARC report made several recommendations that would incorporate the investment approach into these environmental quality programs. These recommendations include increasing the systematic collection and sharing of information, integrating practices regarding the investment model into program structures and operations, streamlining and better integrating program services to local governments, and ensuring that the funding agencies work together to achieve these goals.

The Independent Science Panel, which was created to provide scientific oversight of the state's salmon recovery efforts, issued a report in December 2000 concerning monitoring. The report noted that although there are a number of monitoring efforts currently utilized by different programs, these monitoring efforts are largely uncoordinated and unlinked among programs,

use different indicators, have different objectives, and lack support for sharing data. The report concluded that efforts to recover salmon will not be credible without comprehensive monitoring focused on recovery objectives.

### **Summary:**

The Office of Financial Management (OFM) is required to assist the Department of Ecology, Department of Natural Resources, Department of Fish and Wildlife, State Conservation Commission, Interagency Committee for Outdoor Recreation, Salmon Recovery Funding Board, and the Public Works Board within the Department of Community Trade and Economic Development in developing outcome focused performance measures for administering grant and loan programs related to natural resources or the environment. These performance measures must be used in determining grant eligibility, for program management, and performance assessment. These agencies are required to consult with grant or loan recipients and other interested parties and report to the OFM on implementation of this section. The OFM is required to report to the natural resource and fiscal committees of the Legislature on the implementation of this section, along with any recommended changes to current law, by July 31, 2002. These natural resource agencies are required to assist the OFM in preparing the report.

The OFM and the Salmon Recovery Office are directed to help these natural resource-related agencies develop recommendations for a monitoring program to measure outcome focused performance measures. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in SSB 5637. SSB 5637 was enacted in the 2001 session to coordinate state agency monitoring activities with appropriate state, federal, local, and tribal government monitoring efforts.

Several natural resource-related grant or loan programs must require grant or loan applicants to incorporate a description of the environmental benefits of projects into their grant or loan applications, and these must be considered by the agency in the prioritization and selection process. The agencies must coordinate their performance measure systems with other agencies to the greatest extent possible.

Performance measure requirements also apply to programs administered by the Department of Fish and Wildlife related to protecting or recovering fish stocks that are funded by the capital budget.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House	84	0	(House concurred)

**Effective:** July 22, 2001



### **Roll Calls on a Bill: 1785 (2001-02)**

Brief            Implementing the recommendations of the joint legislative audit and  
Description: review committee report regarding capital budget programs investing in  
the environment.

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#### **2001 Regular Session**

Chamber:            HOUSE  
Bill No.:            ESHB 1785  
Description:        FINAL PASSAGE  
Item No.:            43  
Transcript No.:    65  
Date:                03-13-2001

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting        Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes,  
yea:           Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Carrell, Casada,  
                Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse,  
                Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds,  
                Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant,  
                Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney,  
                Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin,  
                McDermott, McIntire, McMorris, Miloscia, Mitchell, Morell, Morris, Mulliken,  
                Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall,  
                Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler,  
                Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers,  
                H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker  
                Ballard, and Speaker Chopp  
Excused: Representatives Campbell, Mielke

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#### **2001 Regular Session**

Chamber:            SENATE  
Bill No.:            ESHB 1785  
Description:        3RD READING & FINAL PASSAGE AS AMENDED BY THE  
                        SENATE  
Item No.:            16  
Transcript No.:    95  
Date:                04-12-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting        Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley,  
yea:           Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Hochstatter,  
                Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long,  
                McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice,  
                Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T.,

Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley,  
Zarelli

Excused: Senators Deccio, Haugen

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**2001 Regular Session**

Chamber: HOUSE  
Bill No.: ESHB 1785  
Description: FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 7  
Transcript No.: 100  
Date: 04-17-2001

Yeas: 84 Nays: 00 Absent: 00 Excused: 14

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, B., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hurst, Jackley, Jarrett, Kagi, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Skinner, Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Barlean, Benson, Casada, Chandler, G., DeBolt, Hunt, Keiser, Kenney, McDermott, Quall, Reardon, Sehlin, Simpson, Sommers, H.

## ENGROSSED SUBSTITUTE HOUSE BILL 1832

### *Modifying provisions concerning water management*

#### **PROGRAM IMPACTS**

Watershed planning provisions: Planning units can apply for up to \$100,000 additional assessment dollars for: instream flows (top priority), water quality, and assessment of multipurpose storage opportunities. If the initiating governments for a planning area do not want to address instream flows, then Ecology can retain \$100,000 to establish instream flows for that area. A timeline is established for indicating if the initiating governments choose to address flows. If they choose not to, then Ecology can retain money and set the flows. By October 1, 2001 Ecology must complete a final nonproject EIS on methodologies for setting instream flows. Planning units can request different amounts of funding for phase 2 (assessments) or phase 3 (plan development) if they can show how they will get the plan completed on time. The planning clock starts when the planning unit first draws upon phase 2 funding.

Two lines provisions: Establishes separate waiting lines for new water rights and water right changes. Allows Ecology to process water right changes without considering the impact of the change on pending applications for new water rights.

Conservancy board provisions: Clarifies several ambiguities in the original legislation to provide conservancy boards with full authority to process water right changes and transfers, including those involving ground water use, subject to final approval by Ecology. Provides for multi-county and multi-watershed conservancy boards. Requires Ecology to assign a staff representative to work with each board and provide technical assistance. Makes numerous clarifications of conservancy board procedures and clarifies conflict of interest requirements for board members.

Family farm provisions: Allows for (1) the transfer of family farm water permits and rights to other agricultural irrigation purposes, (2) the temporary transfer under lease agreements to other purposes, and (3) the permanent transfer to another purpose if the right is for use of water at a location that is within the boundaries of an urban growth area, within a city or town, or within an area designated for urban growth in a comprehensive land use plan. Increases the acreage allowed to be irrigated under family farm water rights from 2,000 to 6,000 acres by the person having controlling interest in the lands.

Conservation tax incentives: Provides for a deduction from the gross income of a water utility seventy-five percent of the amounts expended by the utility to

improve customers' water use efficiency. Creates the state water rights trust account. Establishes an intent by the Legislature to fund the account at a rate of one-third of the total tax savings resulting from utilities' investments in consumer water use efficiency. Proceeds in the account are to be spent, subject to appropriation, to purchase or lease water rights to augment instream flows for fish.

Trust water rights provisions: Water rights placed in the trust water rights program are exempt from relinquishment. Expands upon provisions relating to donation or leasing of water rights to the trust water rights program. Streamlines Ecology's review of water right donations in areas with depressed fish stocks and trust water right leases acquired during declared drought conditions.

Reporting requirements: By December 31, 2004, Ecology must report to the Legislature its pertinent experience in implementing the Act. Annually for four years, Ecology must report on the results of processing applications under the two lines provisions. By October 1, 2001, the Office of Financial Management (OFM) is required to assess watershed planning, including the performance of watershed planning units and the state agencies involved in such planning, and including the progress being made in setting instream flows. OFM must also report annually for four years on whether Ecology has adequate funding to fulfill its responsibilities for processing applications through water conservancy boards. OFM, with assistance from the Departments of Health, Ecology and Revenue must evaluate the long-term revenue impacts and costs and benefits of the tax deduction for conservation expenditures and for other potential water conservation tax incentives and must report its findings by December 31, 2001. OFM in consultation with Health and Ecology must also evaluate the level of water savings occurring from water suppliers' use of the tax incentive and report its findings by December 31, 2002.

## **RESOURCE IMPACTS**

Ecology was given an appropriation of \$2.1 million to distribute grants to watershed planning units that propose to address optional plan elements (instream flows, water quality, and/or storage). Instream flows are given a priority for funding. Current projections indicate that at least 29 WRIAs that are addressing flows will be seeking this additional funding. Ecology also received another \$1 million to develop a SEPA (environmental impact statement/EIS) template for watershed plans that are adopted, to support a panel on long term implementation funding and to provide additional technical support to watershed units.

Ecology received \$6 million for the 02-03 biennium to implement various provisions of ESHB 1832 and to process water right change applications. Some

of these funds will be shared with other agencies receiving work assignments in the Act.

Ecology did not receive separate funding for increased conservancy board support, but intends to provide such support from the funds provided for processing change applications. Ecology also did not receive any separate funding for processing trust water right changes or family farm water right changes, but believes the numbers of such changes will be relatively small and can be managed as part of the overall effort to eliminate the water rights change backlog.

Ecology received state appropriations totaling \$3.5 million and federal appropriation authority for \$6 million to purchase or lease trust water rights for fish flow improvement.

## **WORK PLAN**

Watershed planning provisions: In July 2001, Ecology will send a letter to each of the watershed lead agencies indicating the availability of additional dollars for assessments. This letter will indicate that the first priority will be to those planning units taking on flows. This letter will clearly identify how we will fund these assessments and it will identify what Ecology expects from these assessments. We will provide funding for flows in three steps: (1) identify objectives for the flow recommendation and select the flow setting approach, (2) carry out instream flow studies, and (3) assess flow options and make flow recommendations. Contracts for additional assessment dollars will be negotiated during the fall of 2001.

A draft of the Instream Flow EIS will be completed on October 2001 with the intention of having publishing a final EIS by December 2001. Ecology also received funding in the biennial budget for developing an environmental impact statement template for watershed plans, supporting a watershed implementation panel, and additional staffing to provide support to watershed units.

Two lines provisions: Ecology has made preliminary decisions regarding deployment of new staff and has begun the process of hiring new staff to work on water right change applications. We anticipate having all new staff hired by September. Some staff will be transitioning from drought related work to permitting work in the fall and winter. Ecology is also developing updated guidance and procedures for its staff and will provide intensive training for new staff. The Act does not specify a time frame for Ecology to eliminate the water right change backlog, however, our goal is to do so within six years beginning July 1, 2001. This assumes that decisions will be made on about 3,000 change applications in that time frame. Ecology will also be negotiating agreements with

several other agencies having a role in water rights processing in order to provide them with some funding assistance.

Conservancy board provisions: Ecology is now identifying the required staff contacts for each conservancy board. A 28-page guidance document has been provided to board members reflecting changes in the conservancy board statute. Ecology has not decided when it will amend the current conservancy board rules to align them with the statutory changes. A continuing education session with all board commissioners is being planned for summer or early fall 2001. We expect the number of records of decision by conservancy boards to increase due to the legislation. Ecology will be devoting additional water rights change staff to reviewing records of decision and making our final decisions on them.

Family farm provisions: Ecology does not plan any extraordinary steps regarding family farm water right changes. We anticipate the filing of some additional change applications as a result of the Act. However, these applications will have to wait their turn in the backlog of change applications. We will be adding new permitting staff that will allow us to process all change applications sooner than we otherwise would have. We will provide guidance and training to our permitting staff and conservancy board members regarding family farm water right changes. No rules currently exist regarding family farm water rights.

Conservation tax incentives: Ecology does not foresee any immediate changes in its work due to these provisions. It would take a couple years for a sufficient balance to be built in the water rights trust account to justify asking for an appropriation for buying or leasing water rights from this account.

Trust water rights provisions: Ecology will probably need to amend its existing trust water rights guidelines to bring them into alignment with the amendments to the trust water rights laws. We will provide internal training and training of conservancy boards which now have authority to process trust water rights. We anticipate needing to apply these provisions immediately due to current drought conditions and a major influx of funds for buying or leasing trust water rights. Ecology did not receive any specific funding for processing trust water rights, however the additional resources received for processing water rights changes and for drought operations will help expedite the processing of trust water rights.

Reporting requirements: Ecology will compile information for OFM for the October 2001 annual report on watershed planning. We will also be assisting OFM in its reporting requirements relating to water conservation tax incentives and conservancy board support. Before the end of 2001, we will be preparing the required annual report on our efforts to implement the “two lines” water rights provisions. Ecology will be negotiating an interagency agreement with OFM to provide some funding for their costs to meet the reporting requirements.

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# FINAL BILL REPORT

## ESHB 1832

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C 237 L 01

Synopsis as Enacted

**Brief Description:** Modifying provisions concerning water management.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Linville and G. Chandler; by request of Governor Locke).

**House Committee on Agriculture & Ecology**  
**House Committee on Appropriations**

### **Background:**

Watershed Planning. State law establishes procedures and policies for initiating watershed planning at the local level. If certain local governments choose to initiate the planning for one or more Water Resource Inventory Areas (WRIA's) or watersheds, they appoint a planning unit to do the planning. The planning unit must address water quantity issues in the WRIA. The initiating governments may choose to add other components to the planning process. These may include instream flows, water quality, and fish habitat. The maximum amount of money that may be granted by the Department of Ecology (DOE) to a planning unit for each of three phases of planning is: for Phase I (for organizing), up to \$50,000 for one WRIA or up to \$75,000 for multiple WRIA's; for Phase II (for watershed assessments), up to \$200,000/WRIA; and for Phase III (for developing a watershed plan and recommending actions), up to \$250,000/WRIA. If a planning unit receives more than the organizational grant monies from the DOE, it must submit its watershed plan for county approval within four years of the date the funding was first received by the planning unit.

Modifying Existing Water Rights. There are several fundamental elements of a water right. One is its priority (or seniority). Other elements include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used. Certain elements of a water right may be modified with the approval of the DOE if the modification would not impair other existing water rights. In a 1983 decision, the state's Supreme Court required the DOE to consider the rights represented by applications for new water permits that have not yet been granted or denied when it considers applications for modifying existing rights. This has the effect of tying together the DOE's consideration of the two types of applications.



Conservancy Boards. Historically, applications for modifying existing water rights were filed with and processed by the DOE and its predecessor agencies. An alternative processing system was established with the enactment of legislation in 1997 authorizing water conservancy boards. These boards may be created by a county legislative authority with the approval of the DOE. A board has three members, called commissioners. A water right holder who claims that his or her existing water right will be detrimentally affected or injured by an application being considered by the board may intervene. If the board approves an application, the director of the DOE has 45 days in which to review the board's action to affirm, reverse, or modify it. With the consent of the parties, this review period may be extended an additional 30 days. If the director fails to act within this time period, the action taken by the board is considered to be final, although it is subject to appeal in the same manner as other water right decisions of the director. A board member who has an ownership interest in a water right that is the subject of an application before the board cannot participate in the board's review or decision on the application. A board member who is on the governing board of or is an employee of a municipally owned water system cannot participate in the board's review of an application regarding a water right in which the system has an ownership interest.

In rules adopted by the DOE, the types of modifications of water rights that may be approved by a board are defined broadly: the board may consider the same types of modifications as may the DOE. However, in a Thurston County Superior Court case, the court found the authority of the boards to be much more limited: they may review applications to modify the place of use or the point of diversion or withdrawal of a water right, but they may not review applications involving other modifications. The DOE has appealed the court's ruling. The laws authorizing these boards also waive the liability of the county and the DOE regarding claims of damages arising from the water right modifications approved by such a board.

Family Farm Permits. Family farm permits are water right permits issued under the Family Farm Water Act, which was adopted by the voters through the approval of Initiative Measure No. 59 in 1977. Under the act, the principal permit for using water to irrigate privately owned agricultural lands is the family farm permit. A family farm permit must limit the use of water withdrawn for irrigating agricultural lands to land qualifying as a family farm (i.e., not more than 2000 contiguous or noncontiguous acres of irrigated agricultural lands). The right to withdraw water for use for irrigating agricultural lands under the authority of a family farm permit is subject to the irrigated land's complying with the definition of a family farm as defined at the time the permit is issued. If a person's acquisition of land and water rights would otherwise cause land being irrigated under a family farm permit to lose its status as a family farm, all lands held or acquired must again be in compliance with the

definition of a family farm within certain specified periods of time. The DOE interprets these requirements as prohibiting the water right from being modified so that it may be used for any purpose other than irrigating agricultural lands.

Reclaimed Water. The Department of Health may issue a reclaimed water permit for industrial and commercial uses of reclaimed water to the generator of the reclaimed water. The generator of the reclaimed water may then distribute the water according to the terms of the permit. The permit governs the location, rate, water quality, and purpose of use of the reclaimed water. A permit is required from the DOE for any land application of reclaimed water.

Trust Water Rights. A water right may be donated to or acquired by the state for management as a trust water right. The laws governing the state's trust water right system are divided into two parts: one for the Yakima River Basin; and the other for the rest of the state. The DOE may acquire water rights for the trust water right systems by purchase, gift, or other appropriate means other than condemnation. Water rights may be acquired for either system on a temporary or permanent basis. Among the uses expressly authorized for such trust water rights are instream uses. In general, if a person abandons his or her water right or voluntarily fails to use the right for five successive years, the person relinquishes the right or the portion of the right abandoned or not used. However, exemptions from this requirement are provided. For example, these relinquishment requirements do not apply to trust water rights.

### **Summary:**

Watershed Planning. For Phase II planning, a planning unit that is doing an instream flow or water quality component in its watershed planning or that conducts certain studies for multi-purpose water storage may apply for up to \$100,000 in additional funds for each component included or for the studies. Priority in providing funding is given for instream flows. The DOE is authorized to retain monies a planning unit is eligible to receive for setting instream flows if the unit will not be setting the flows or, if requested by a unit's initiating governments, for amending existing instream flows. A planning unit may also request a different amount of funding than the amounts specified by law for Phase II and Phase III under certain circumstances. The date by which a watershed plan must be submitted for county approval is four years after the date funds beyond the initial funding are drawn upon by the planning unit. By October 1, 2001, the OFM must report on its assessment of: watershed planning and its progress, including the performance of planning units and state agencies; and progress by planning units and the DOE in setting instream flows.

The DOE must complete a final non-project environmental impact statement (EIS) that evaluates stream flows to meet the goals of maintaining, preserving, and enhancing instream resources. A planning unit or state agency may establish flows in a manner that differs from the EIS if consistent with the applicable instream flow laws.

"Two Lines." Pending applications for new water rights are not entitled to protection from impairment when an application relating to an existing surface or ground water right is considered. Applications relating to the existing water rights may be processed and decisions on them may be rendered independently of the applications for new water rights from the same source of supply. An application relating to an existing water right may be set aside for insufficient information if the applicant is sent a written notice and explanation. The application does not lose its priority date. If the applicant supplies the information within 60 days, the application must then be processed. Until January 1, 2004, the DOE must report annually to the Legislature on the results of processing applications under these new authorities.

Transfers - Generally. The calculation of the annual consumptive quantity of water that may be transferred is now averaged over the two years of greatest use in the last five years (rather than the average of use over those five years). No applicant for a modification of an existing water right may be required to give up any part of the right to a state agency, the trust water right system, or to other persons as a condition for processing the application.

Water Conservancy Boards. A water conservancy board may be established to serve multiple counties or one or more WRIAs. The boards may process the same types of modifications of existing water rights as may the DOE. However, federal Indian reservations and tribal lands held in trust by the federal government are not within the jurisdictions of the boards. If the board processes an application to transfer water out of a WRIA, it must consult with the DOE. A board may act upon an application to transfer an historic right represented by a water right claim filed with the DOE by making a tentative determination as to the validity and extent of the right in the claim.

A county may appoint two additional commissioners to a board. At least one, rather than two, of the members of a board must be a water right holder. One member must be someone other than a water right holder. Alterations in membership to accommodate membership requirements do not have to be made until the first vacancy on the board occurs.

Conclusions of conservancy boards regarding applications are referred to as "records of decisions" and filing applications for modifying existing water rights with such boards rather than the DOE is expressly the option of the applicant. A person with an application on file with the DOE may request that

the application be conveyed to a board for processing. A board may choose not to process an application and return it to the applicant. A board must provide notice regarding applications being processed by the board to Indian tribes with certain reservations and to any other Indian tribe requesting the notice. A board's record of decision to deny an application is subject to review by the DOE.

Among the existing rights that a board must expressly consider regarding possible impairment are rights established for instream flows. Any person may submit to a board comments and other information regarding an application and the comments must be considered. Any person may, within 30 days of the date the DOE receives a board's record of decision, file with the DOE a letter of concerns or support regarding a conclusion reached by a board. When the DOE receives a board's record of decision, the department must promptly post the text of the transmittal form for it on DOE's internet site. The period during which the DOE may review the record of decision of a board may be extended by 30 days by the DOE or at the request of the board or applicant.

Conflict of interest provisions regarding board members are altered. A member may not engage in any act that is in conflict with the proper discharge of the official duties of a commissioner. It is a conflict of interest for the member to have an ownership interest in a water right subject to an application before the board, to receive or have financial interest in an application or its resulting project, or to solicit, accept or seek anything of economic value as a gift or favor from a person involved in an application. A person may request a board member to disqualify himself or herself from the consideration of an application for a conflict of interest and, if the member refuses to do so, time-lines are established for challenging that refusal. The DOE must remand a board's record of decision back to the board for such a conflict. The DOE's decision to remand is appealable at the time available for appealing the record of decision made by the board subsequent to the remand. Boards must provide information for the DOE's biennial reports regarding the boards. The DOE may petition the county or counties served by the board requesting that the board be dissolved for repeated statutory violations or a demonstrated inability to perform its functions.

A decision by the director to deny (not just approve) an action by a county to create a board is appealable to the Pollution Control Hearings Board. A county's board may be dissolved by the adoption of a resolution by the county's legislative authority. A board must maintain minutes of its meetings and the minutes are open to public inspection. A board is subject to the state's public disclosure laws and must maintain records of its proceedings and determinations, which must be available for public inspection and copying.

The Director of the DOE must assign a DOE representative to provide technical assistance to each board. If requested by the board, the representative must work with the board as it processes applications and develops records of decisions. A board may also receive assistance and support from the county government of the county in which it operates. The Office of Financial Management (OFM) must review and report to the Legislature annually until December 31, 2004, on whether the DOE has adequate funding for fulfilling its responsibilities for processing applications through water conservancy boards. The DOE must report to the Legislature annually until December 31, 2004, on the results of processing applications through such boards.

Family Farm Water Permits. A "family farm" under the Family Farm Water Act may be up to 6000 (rather than 2000) irrigated acres. A transfer of a water right under the Family Farm Water Act is defined broadly to include transfers, changes, and amendments of surface and ground water rights. All such modifications of a water right for irrigation use are subject to the limitations of the Act for irrigated acreage. If a portion of the water governed by a water right established under a family farm permit is made surplus to the beneficial uses exercised under the right, the right to use the surplus water may be transferred to any purpose of use that is a beneficial use of water. For this purpose, a water right or portion of a water right may be made surplus through the implementation of practices or technologies, including conveyance practices or technologies, that are more water-use efficient than those under which the right was perfected. This authority cannot be used to transfer the portion of a water right that is necessary for the production of crops historically grown under the right nor to transfer a water right or a portion of a water right that has not been perfected through beneficial use before the transfer. A water right under a family farm permit may be transferred under a lease agreement to any beneficial use. A right to use water under a family farm permit may be transferred to any beneficial use if the place of use before the transfer is within the boundaries of an urban growth area designated under the Growth Management Act or, for a non-growth management planning county, within the boundaries of a city or town or in an area designated for urban growth in its comprehensive plan. A public water system receiving a water right transferred from a family farm permit must meet the conservation requirements of its state approved water system plan or its small water system management program. All water transferred from a family farm permit must remain within the WRIA or within the urban growth area or contiguous urban growth areas if these extend beyond one WRIA.

Reclaimed Water Tax Exemption and Water Conservation Tax Credit. The public utility tax does not apply to 75 percent of the amounts received for water services supplied by an entity with a reclaimed water permit for industrial and commercial uses of water when the water supplied is reclaimed

water. In computing the public utility tax, 75 percent of the amounts expended to improve consumers' efficiency of water use or otherwise to reduce the use of water by consumers are deductible from the utility's gross income. These latter expenditures are deductible if they implement elements of the conservation plan within a state-approved water system plan or small system management program. The tax credit provisions expire on June 30, 2003.

A Water Rights Trust Account is created. The Legislature intends to appropriate amounts that are based on these tax reductions into the account for use by the DOE, after appropriation, to purchase or lease water rights to augment flows in certain streams. The OFM must report to the Legislature by December 31, 2001 on its evaluation of the revenue impacts, costs and benefits of the tax deductions and credits and of other potential water conservation tax incentives.

Trust Water Rights. The DOE may accept a donation of water rights to either the Yakima River or the statewide trust water right system under the following circumstances: (1) an aquatic species is listed as threatened, endangered, or depressed under state or federal law; and (2) the holder of a right to water from the body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows on a temporary or permanent basis. Neither the right donated nor the sum of the portion of a right remaining with the person plus the portion donated may exceed the extent to which the right was exercised during the last five years. Once accepted, such rights are trust water rights within the conditions prescribed by the donor that are relevant and material to protecting the donor's interest in the water right and that satisfy the requirements of the trust water laws. The acceptance of the right as trust water right is not evidence of the validity or quantity of the right. Similar provisions are established for leases by the DOE of water rights in areas covered by drought orders. The requirement that the DOE examine a water right for potential impairment of existing water rights before a trust water right may be exercised is waived for such a donated right. It is also waived for such a drought-leased right if the lease is for five or less years. However, if the DOE subsequently finds that the donated or drought-leased right impairs existing water rights, the resulting trust right must be altered to eliminate the impairment. Requirements that notice be published before a trust water right is exercised apply only the first time such a donation or drought-leased right is exercised as a trust water right.

Trust water rights acquired in an area with an approved watershed plan must be consistent with the plan if it calls for such acquisitions, to the extent practicable and subject to legislative appropriations. The full quantity of water diverted or withdrawn to exercise a right donated to or acquired by the trust

water rights program on a temporary basis reverts to the donor or person from whom the right was acquired when the trust period ends.

If a water right acquired by the state for the state's trust water right systems is expressly conditioned to be for instream use, it must be managed in that manner. If it is a gift and is conditioned to be for instream use, it must be managed for public purposes to ensure that the gift qualifies as a deduction for federal income tax purposes for the person who gave it. The DOE is expressly authorized to lease water rights for the Yakima River trust water rights system and trust water rights in the Yakima system may expressly be exercised for beneficial uses other than instream flows or irrigation.

Other. The DOE must report to the Legislature on its experience with implementing this act by December 31, 2004. In revising or adding provisions to certain statutes, the legislature does not intend to imply legislative approval or disapproval of any existing administrative policy regarding, or any existing administrative or judicial interpretation of, the provisions of those statutes that are not expressly added or revised.

**Votes on Final Passage:**

House	83	14
Senate	33	16

**Effective:** May 10, 2001

### Roll Calls on a Bill: 1832 (2001-02)

Brief Description: Modifying provisions concerning water management.

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#### 2001 Regular Session

Chamber: HOUSE  
Bill No.: ESHB 1832  
Description: FINAL PASSAGE  
Item No.: 1  
Transcript No.: 94  
Date: 04-11-2001

Yeas: 83 Nays: 14 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Doumit, Dunn, Edwards, Eickmeyer, Ericksen, Esser, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McMorris, Mielke, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Quall, Reardon, Roach, Rockefeller, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Sehlin, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Wood, Speaker Ballard, and Speaker Chopp  
Voting nay: Representatives Dickerson, Dunshee, Edmonds, Fisher, Kagi, Keiser, McDermott, McIntire, Miloscia, Poulsen, Romero, Schual-Berke, Simpson, Veloria  
Excused: Representative Woods

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#### 2001 Regular Session

Chamber: SENATE  
Bill No.: ESHB 1832  
Description: 329 FRASER PG 20  
Item No.: 12  
Transcript No.: 100  
Date: 04-17-2001

Yeas: 23 Nays: 26 Absent: 00 Excused: 00

Voting yea: Senators Brown, Constantine, Costa, Eide, Fairley, Franklin, Fraser, Gardner, Haugen, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Patterson, Prentice, Rasmussen, Regala, Sheldon, B., Shin, Snyder, Spanel, Thibaudeau  
Voting nay: Senators Benton, Carlson, Deccio, Finkbeiner, Hale, Hargrove, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Parlette, Roach, Rossi, Sheahan, Sheldon, T., Stevens, Swecker, West,



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**2001 Regular Session**

Chamber: SENATE  
Bill No.: ESHB 1832  
Description: 345 BROWN PG 24  
Item No.: 13  
Transcript No.: 100  
Date: 04-17-2001

Yeas: 24 Nays: 25 Absent: 00 Excused: 00

Voting yea: Senators Brown, Constantine, Costa, Eide, Fairley, Franklin, Fraser, Gardner, Hargrove, Haugen, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Patterson, Prentice, Rasmussen, Regala, Sheldon, B., Shin, Snyder, Spanel, Thibaudeau  
Voting nay: Senators Benton, Carlson, Deccio, Finkbeiner, Hale, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Parlette, Roach, Rossi, Sheahan, Sheldon, T., Stevens, Swecker, West, Winsley, Zarelli

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: ESHB 1832  
Description: 348 BROWN PG 35  
Item No.: 14  
Transcript No.: 100  
Date: 04-17-2001

Yeas: 24 Nays: 25 Absent: 00 Excused: 00

Voting yea: Senators Brown, Constantine, Costa, Eide, Fairley, Franklin, Fraser, Gardner, Hargrove, Haugen, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Patterson, Prentice, Rasmussen, Regala, Sheldon, B., Shin, Snyder, Spanel, Thibaudeau  
Voting nay: Senators Benton, Carlson, Deccio, Finkbeiner, Hale, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Long, McCaslin, McDonald, Morton, Oke, Parlette, Roach, Rossi, Sheahan, Sheldon, T., Stevens, Swecker, West, Winsley, Zarelli

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: ESHB 1832  
Description: 343 BROWN PG 35  
Item No.: 15  
Transcript No.: 100

Date: 04-17-2001

Yeas: 23 Nays: 26 Absent: 00 Excused: 00

Voting Senators Brown, Constantine, Costa, Eide, Fairley, Franklin, Fraser, Gardner,  
yea: Haugen, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Patterson,  
Prentice, Rasmussen, Regala, Sheldon, B., Shin, Snyder, Spanel,  
Thibaudeau

Voting Senators Benton, Carlson, Deccio, Finkbeiner, Hale, Hargrove, Hewitt,  
nay: Hochstatter, Honeyford, Horn, Johnson, Long, McCaslin, McDonald, Morton,  
Oke, Parlette, Roach, Rossi, Sheahan, Sheldon, T., Stevens, Swecker, West,  
Winsley, Zarelli

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: ESHB 1832  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 16  
Transcript No.: 100  
Date: 04-17-2001

Yeas: 33 Nays: 16 Absent: 00 Excused: 00

Voting Senators Benton, Carlson, Deccio, Eide, Finkbeiner, Gardner, Hale, Hargrove,  
yea: Haugen, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Kastama, Long,  
McCaslin, McDonald, Morton, Oke, Parlette, Rasmussen, Roach, Rossi,  
Sheahan, Sheldon, T., Shin, Snyder, Stevens, Swecker, West, Winsley,  
Zarelli

Voting Senators Brown, Constantine, Costa, Fairley, Franklin, Fraser, Jacobsen,  
nay: Kline, Kohl-Welles, McAuliffe, Patterson, Prentice, Regala, Sheldon, B.,  
Spanel, Thibaudeau

## **HOUSE BILL 1865**

### *Changing watershed planning provisions*

#### **PROGRAM IMPACTS**

This bill identifies which water supply utility qualifies as an initiating government in a water resource inventory area (WRIA) that has lands in the Columbia Basin Project. This being the water supply utility obtaining from the Columbia Basin Project the largest quantity of water for the WRIA.

#### **RESOURCE IMPACTS**

There are no resource impacts regarding the implementation of this bill. Ecology will probably get some new applications for WRIAs interested in watershed planning.

#### **WORK PLAN**

The Watershed Planning Grant application process will close on June 30, 2001. We expect watersheds that were interested in this statutory change to submit an application during this cycle or in the 2002 cycle. This bill will clarify the identification of initiating governments.

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# FINAL BILL REPORT

## HB 1865

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C 229 L 01

Synopsis as Enacted

**Brief Description:** Changing watershed planning provisions.

**Sponsors:** By Representatives G. Chandler and Grant.

**House Committee on Agriculture & Ecology**

**Senate Committee on Environment, Energy & Water**

### **Background:**

The state's watershed planning law establishes a process for developing watershed plans under a locally initiated planning process. Watershed planning may be initiated for a single water resource inventory area (WRIA), as these watersheds have been designated by rules adopted by the Department of Ecology (DOE), or for a multi-WRIA area. Watershed planning for a single WRIA may be initiated only with the concurrence of: all counties within the WRIA; the largest city or town within the WRIA unless the WRIA does not contain a city or town; and the water supply utility obtaining the largest quantity of water from the WRIA. It may be initiated for a multi-WRIA area only with the concurrence of: all counties within the multi-WRIA area; the largest city or town in each WRIA unless the WRIA does not contain a city or town; and the water supply utility obtaining the largest quantity of water in each WRIA. If these entities decide to proceed, they must extend an invitation to all tribes with reservation lands within the management area. These entities, including the tribes if they affirmatively accept the invitation, constitute the "initiating governments" for the purposes of initiating watershed planning.

### **Summary:**

For a water resource inventory area (WRIA) with lands in the Columbia Basin Project, the water supply utility obtaining from the project the largest quantity of water for the WRIA is the water supply utility that qualifies as an initiating government for watershed planning for the WRIA.

### **Votes on Final Passage:**

House	98	0	
Senate	47	0	(Senate amended)
House	88	0	(House concurred)

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 1865 (2001-02)**

Brief Description: Changing watershed planning provisions.

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: HB 1865  
Description: FINAL PASSAGE  
Item No.: 21  
Transcript No.: 64  
Date: 03-12-2001

Yeas: 98 Nays: 00 Absent: 00 Excused: 00

Voting  
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: HB 1865  
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 36  
Transcript No.: 93  
Date: 04-10-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting  
yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Excused: Senators Haugen, Johnson

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**2001 Regular Session**

Chamber: HOUSE  
Bill No.: HB 1865  
Description: FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 11  
Transcript No.: 96  
Date: 04-13-2001

Yeas: 88 Nays: 00 Absent: 00 Excused: 10

Voting     Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes,  
yea:        Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,  
             Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper,  
             Crouse, Darneille, DeBolt, Dickerson, Doumit, Dunn, Dunshee, Edmonds,  
             Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant,  
             Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney,  
             Kessler, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott,  
             McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Murray, O'Brien,  
             Ogden, Pearson, Pennington, Pflug, Quall, Reardon, Roach, Rockefeller,  
             Romero, Santos, Schindler, Schmidt, D., Schual-Berke, Skinner, Sommers,  
             H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker  
             Ballard  
Excused: Representatives Cox, Delvin, Kirby, Mulliken, Poulsen, Ruderman, Schoesler,  
             Sehlin, Simpson, and Speaker Chopp

## **SUBSTITUTE HOUSE BILL 2049**

*Limiting penalties during technical assistance visits*

### **PROGRAM IMPACTS**

This bill provides that during a visit under this act, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue a citation during a technical assistance visit under RCW 43.05.050 or under RCW 43.05.090. There may be slight procedural impacts to our programs with enforcement authority and/or programs using technical assistance visit provisions.

### **RESOURCE IMPACTS**

This bill is consistent with current Ecology procedures for technical assistance and enforcement so there are no additional resource impacts.

### **WORK PLAN**

No changes in previous procedures or staffing levels are required. Program staff making technical assistance visits should take additional care to ensure that all violations are noted in order to avoid being blocked from subsequent enforcement.

**Contact person:** Jerry Thielen – Intergovernmental Relations' Rules Unit  
Phone: (360) 407-7551; E-mail: [jthi@ecy.wa.gov](mailto:jthi@ecy.wa.gov)

# FINAL BILL REPORT

## SHB 2049

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C 190 L 01

Synopsis as Enacted

**Brief Description:** Establishing technical assistance programs.

**Sponsors:** By House Committee on State Government (originally sponsored by Representatives Pearson, Crouse, Cox, Schindler, DeBolt, Mitchell, Ericksen, Cairnes, Clements and Talcott).

**House Committee on State Government**  
**Senate Committee on State & Local Government**

### **Background:**

All regulatory agencies must develop technical assistance programs to encourage voluntary compliance with statutory requirements. The programs must include printed information, information and assistance by telephone, training meetings, technical assistance visits, and other methods to provide technical assistance.

An owner or operator may request a technical assistance visit, and in all cases, technical assistance visits must be voluntary. During a technical assistance visit, a regulatory agency must inform the owner or operator of:

- any violations of law or agency rules the agency observes;
- what is required to achieve compliance;
- the date by which the agency requires compliance to be achieved, along with information on how to extend this date; and
- information on how to contact technical assistance providers.

An agency may not impose a civil penalty during a technical assistance program unless:

- the owner or operator has been subject to an enforcement action for, or has been given previous notice of, the same or similar violations in the past;
- the violation involves the remittance of sales tax due to the state; or
- the violation has the probability of causing harm to people, the environment, or property.

After a technical assistance visit where violations have been identified, the regulatory agency must give the owner or operator a reasonable amount of time to correct the violations. A regulatory agency may conduct a follow-up



visit after this amount of time has expired and issue civil penalties for uncorrected violations.

**Summary:**

During a follow-up visit to a technical assistance visit, a regulatory agency may not issue a civil penalty for violations not previously identified in a technical assistance visit unless:

- the individual or business has been previously cited for, or has been given previous notification of, the same violation;
- the violation involves delinquent sales taxes due to the state;
- the violation has a probability of causing death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding \$1,000; or
- The penalties are for violations of certain workplace safety regulations.

**Votes on Final Passage:**

House	95	0	
Senate	46	0	(Senate amended)
House	94	0	(House concurred)

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 2049 (2001-02)**

Brief                      Limiting penalties during technical assistance visits.  
Description:

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#### **2001 Regular Session**

Chamber:                HOUSE  
Bill No.:                SHB 2049  
Description:            FINAL PASSAGE  
Item No.:                48  
Transcript No.:        64  
Date:                    03-12-2001

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting        Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes,  
yea:           Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,  
                Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox,  
                Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee,  
                Edmonds, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant,  
                Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney,  
                Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire,  
                McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien,  
                Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach,  
                Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler,  
                Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott,  
                Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker  
                Chopp

Excused: Representatives Edwards, Kessler, Kirby

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#### **2001 Regular Session**

Chamber:                SENATE  
Bill No.:                SHB 2049  
Description:            3RD READING & FINAL PASSAGE AS AMENDED BY THE  
                                SENATE  
Item No.:                30  
Transcript No.:        89  
Date:                    04-06-2001

Yeas: 46 Nays: 00 Absent: 00 Excused: 03

Voting        Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley,  
yea:           Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,  
                Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-  
                Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette,  
                Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon,  
                B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley,

Zarelli

Excused: Senators Deccio, Snyder, West

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**2001 Regular Session**

Chamber: HOUSE  
Bill No.: SHB 2049  
Description: FINAL PASSAGE AS AMENDED BY THE SENATE  
Item No.: 16  
Transcript No.: 99  
Date: 04-16-2001

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Simpson, Skinner, Sump, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp  
Excused: Representatives Dunshee, Sehlin, Sommers, H., Talcott



## **SUBSTITUTE SENATE BILL 5182**

*Ensuring a sustainable, comprehensive pipeline safety program in the state*

### **PROGRAM IMPACTS**

This law would impose no new responsibility on Ecology. In part, the bill would generate funds the Washington Utilities and Transportation Commission (WUTC) would use to fund preparedness and response activities at Ecology as recommended by the Governor's Fuel Accident Prevention and Response Team Report, December 1999 (recommendations #12, 13, and 14).

### **RESOURCE IMPACTS**

Through an interagency agreement, part of the fee imposed in section 3 of the law would fund 1 FTE at the Department of Ecology (Ecology). This position would be responsible for:

- Pipeline-specific development of effective response plans for a discharge or a substantial threat of a discharge under RCW 90.56.210;

- Coordinating with and providing technical assistance to local first response agencies (i.e. fire departments, law enforcement, health departments, county planners, etc.);

- Working with pipeline companies, federal response agencies, and the WUTC to develop and drill effective Geographic Response Plans (GRPs). (GRPs are developed under federal and state response authority for specific regions in Washington State based on environmental, cultural and economic factors. GRPs are intended to be hands-on references for immediate response to mitigate, contain and clean-up spills to state waters.);

- Working with the WUTC, the federal Office of Pipeline Safety, and Ecology prevention planners, to improve prevention of discharges and achieve coordinated response to incidents and subsequent investigations; and

- Responding to, and working with, the public and other agencies on issues of environmental impacts and protection related to pipelines.

## **WORK PLAN**

Ecology will write and set up an Interagency Agreement with WUTC to establish the statement of work, period of performance, and the accounting process. A Classification Questionnaire (CQ) will then be finalized for the position. Ecology will conduct interviews and fill the position.

The projected timeline is as follows:

Interagency Agreement completed by 8/30/01

CQ completed by 8/30/01

Position recruitment started by 9/11/01

**Contact person:** Kitty Hjelm – Spill Prevention, Preparedness and Response Program

Phone: (360) 407-7454; E-mail: khje461@ecy.wa.gov

# FINAL BILL REPORT

## SSB 5182

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C 238 L 01

Synopsis as Enacted

**Brief Description:** Ensuring a sustainable, comprehensive pipeline safety program in the state.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Spanel, McDonald, Fraser, Morton, Eide, McAuliffe and Kohl-Welles; by request of Utilities & Transportation Commission).

**Senate Committee on Environment, Energy & Water**

**Senate Committee on Ways & Means**

**House Committee on Agriculture & Ecology**

**House Committee on Appropriations**

**Background:** The Legislature recently passed the Washington State Pipeline Safety Act of 2000. That act required the Utilities and Transportation Commission (UTC) to develop and implement a comprehensive hazardous liquid pipeline safety program. The UTC and the Department of Ecology were also required to seek federal authority to act as federal agents to inspect and enforce federal law, and seek authority to adopt safety standards over interstate hazardous liquid pipelines.

The UTC was required to transfer all powers and duties related to hazardous liquid pipelines to Ecology if: (1) the federal interstate pipeline preemption is lifted, or (2) interstate pipeline authority is granted to Ecology. The federal government did grant the state additional inspection authority, but only if the UTC handled this responsibility.

The act also created a new hazardous liquid pipeline safety account for use by Ecology in performing the pipeline inspections. Since the inspection duties remain at the UTC, the account is not used.

The act granted the state agencies the power to collect fees to support its pipeline safety program.

**Summary:** The statutory provisions transferring the hazardous liquid pipeline safety program from the Utilities and Transportation Commission to the Department of Ecology are eliminated. The program remains at the UTC.

Gas companies, interstate gas pipeline companies, and hazardous liquid pipeline companies are required to pay an annual fee to the UTC to support the

agency's pipeline safety program. The UTC is required to adopt rules to establish the methodology for setting the fee. The fee methodology must provide for an equitable distribution of program costs among entities, assign directly assignable costs, and provide for the development of a uniform and equitable method for allocating other costs. Pipeline safety fees may not exceed appropriated funding levels and are subject to statutory fiscal growth factor restrictions.

Fees are collected as part of regulatory fees, for those pipeline companies subject to regulatory fees. A process is established for the UTC's record keeping, contesting the imposition of a fee, the assessment of late fees, and the issuing of refunds.

Fees, federal funds, and civil penalties are deposited into the renamed pipeline safety account. The penalties deposited in the account are no longer dedicated to enforcement purposes.

The UTC must consult with, and periodically report to, the Citizens Committee on Pipeline Safety. Additional provisions, regarding participation by voting and nonvoting members, are added to the statute concerning the citizen's committee.

The Joint Legislative Audit and Review Committee (JLARC) conducts a review of the pipeline safety programs, including a review of staff use, inspection activity, fee methodology and program costs. The committee reports to the Legislature by July 1, 2003. The UTC must develop a regulatory incentive program to be implemented after the JLARC review is completed.

Other technical and clarifying changes are made.

**Votes on Final Passage:**

Senate	48	1	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 1, 2001



### **Roll Calls on a Bill: 5182 (2001-02)**

Brief Description: Ensuring a sustainable, comprehensive pipeline safety program in the state.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5182  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 7  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 48 Nays: 01 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Voting nay: Senator Honeyford

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5182  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 7  
Transcript No.: 88  
Date: 04-05-2001

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representative McMorris

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5182  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 7  
Transcript No.: 99  
Date: 04-16-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley,  
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,  
Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-  
Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette,  
Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon,  
B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West,  
Winsley, Zarelli  
Excused: Senators Deccio, Snyder

## **SENATE BILL 5333**

*Concerning preliminary permits for water closed to diversions due to a federal moratorium*

### **PROGRAM IMPACTS**

This bill clarifies the status of canceled preliminary permits (study permits) and their associated applications for water right filings relating to Columbia River waters that were withdrawn from appropriation from 1990 through 1998 and extends such preliminary permits to June 30, 2002. The bill effects a change in policy and does not require any specific work of the Department of Ecology. It does bring back to life at least one application and associated preliminary permit that were canceled due to the exhaustion of time allowed by statute for completion of work under a preliminary permit. The Department is aware of only one such case – a water right application filed by the City of Richland.

### **RESOURCE IMPACTS**

No revenue or additional resources have been provided to implement this bill. Even prior to passage of this legislation, Ecology had settled a related legal dispute with the City of Richland and its neighboring cities. The bill requires no new work beyond what has already been committed to in the settlement.

### **WORK PLAN**

Ecology has agreed in the settlement to process the City of Richland water right application along with ten other applications for water from the Columbia River. Ecology has contracted with an engineering consulting firm for analysis of the eleven applications. Upon receipt of this information, Ecology will render decisions on the applications. No hiring will be required and Ecology plans to complete work on the applications within a year. For future preliminary permits that are issued, Ecology intends to provide clear information as to the negative consequences to the permit holder of failing to meet the statutory deadlines.

**Contact person:** Ken Slattery – Water Resources Program  
Phone: (360) 407-6603; E-mail: kshw461@ecy.wa.gov

# FINAL BILL REPORT

## SB 5333

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C 239 L 01

Synopsis as Enacted

**Brief Description:** Concerning preliminary permits for water closed to diversions due to a federal moratorium.

**Sponsors:** Senators Honeyford, Hale, Morton, Hochstatter, Hewitt, Swecker and Sheahan.

**Senate Committee on Environment, Energy & Water**  
**House Committee on Agriculture & Ecology**

**Background:** RCW 90.03.290 of the water code establishes the requirements for rendering a decision on a water rights application. In respect to making necessary findings, the Department of Ecology is allowed to issue a preliminary permit that requires the applicant to obtain sufficient information. The period of such a permit is not to exceed three years, but, if specified requirements are met, can be extended for a maximum of two additional years. If the applicant fails to comply with the conditions of the preliminary permit, the permit and the application are automatically cancelled.

**Summary:** A preliminary permit directly affected by a moratorium on the Columbia River between 1990 and 1998 is extended through June 30, 2002, and any cancelled application and preliminary permit are reinstated and the permit extended until June 30, 2002, if these provide regional water supply to one or more urban growth areas and areas near them from an existing structure. Authority is granted to so modify a canceled application or permit.

**Votes on Final Passage:**

Senate	45	2	
House	82	0	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 5333 (2001-02)**

Brief Concerning preliminary permits for water closed to diversions due to a  
Description: federal moratorium.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SB 5333  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 42  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 45 Nays: 02 Absent: 00 Excused: 02

Voting yea: Senators Benton, Brown, Carlson, Constantine, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Voting nay: Senators Costa, Gardner  
Excused: Senators Deccio, McCaslin

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SB 5333  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 15  
Transcript No.: 95  
Date: 04-12-2001

Yeas: 82 Nays: 00 Absent: 00 Excused: 16

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunn, Edmonds, Edwards, Ericksen, Esser, Fisher, Fromhold, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Kessler, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Quall, Roach, Rockefeller, Romero, Santos, Schindler, Schmidt, D., Schoesler, Simpson, Skinner, Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard

Excused: Representatives Cooper, Doumit, Dunshee, Eickmeyer, Gombosky, Keiser, Kenney, Kirby, McIntire, Poulsen, Reardon, Ruderman, Schual-

**2001 Regular Session**

Chamber: SENATE  
Bill No.: SB 5333  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 12  
Transcript No.: 102  
Date: 04-19-2001

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Excused: Senator Kline

# **SUBSTITUTE SENATE BILL 5401**

## *Eliminating boards and commissions*

### **PROGRAM IMPACTS**

The bill eliminates the requirement that Ecology establish three committees, commissions or teams. These are the:

1. Model Toxics Control Act Regional Citizen Advisory Committees  
The "regional citizen advisory committees under the Model Toxics Control Act (RCW 70.105D) will be disbanded". The bill also directs Ecology to continue appropriate public involvement and outreach to provide cost-effective public input on our programs and policies.
2. Shoreline Guidelines Commission
3. Wetlands Mitigation Banking Advisory Team

### **RESOURCE IMPACTS**

No additional resources are required to implement this bill.

1. Model Toxics Control Act Regional Citizen Advisory Committees  
In the last several years, the regional citizen advisory committees have not met and it has been difficult finding persons interested in serving on these committees. Thus, little program impact is expected as a result of passage of this bill.
2. Shoreline Guidelines Commission  
This Commission was created with the endorsement of the Governor to develop revisions to the SMA Guidelines. This commission has completed its work and has been disbanded. No resource impacts are anticipated.
3. Wetlands Mitigation Banking Advisory Team  
This Team was created to negotiate mitigation banking concepts. The Team completed its work and has not met since the Mitigation Banking Rules were filed. No resource impacts are anticipated.

### **WORK PLAN**

The following actions will be taken by Ecology to implement this bill.

1. Model Toxics Control Act Regional Citizen Advisory Committees - WAC 173-340-610

- Regional offices have been directed to disband these committees.
- Ecology will withdraw WAC 173-340-610, which describes the membership and role of these committees. This will occur in 2001.
- Ecology will continue to provide for public input on Toxic Cleanup Program activities through several mechanisms such as:
  1. site-specific public notices, meetings and advisory committees;
  2. seeking input on technical issues through periodic interaction with the MTCA Science Advisory Board; and,
  3. seeking input on program policies and implementation issues from an advisory committee that includes membership from a broad range of interest groups.

**Contact person:** Curtis Dahlgren – Toxics Cleanup Program  
Phone: (360) 407-7187; E-mail: cdah461@ecy.wa.gov

2. Shoreline Guidelines Commission -

- The Department has dissolved this commission. No additional action is necessary.

**Contact person:** Peter Skowlund – Shoreland Environmental Assistance Program  
Phone: (360) 407-6522; E-mail: psko461@ecy.wa.gov

3. Wetlands Mitigation Banking Advisory Team –

- The Department has dissolved this Team. No additional action is necessary.

**Contact person:** Lauren Driscoll – Shoreland Environmental Assistance Program  
Phone: (360) 407-6902; E-mail: ldri461@ecy.wa.gov



# FINAL BILL REPORT

## SSB 5401

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C 291 L 01

Synopsis as Enacted

**Brief Description:** Eliminating boards and commissions.

**Sponsors:** Senate Committee on State & Local Government (originally sponsored by Senators Patterson and Finkbeiner; by request of Governor Locke).

**Senate Committee on State & Local Government**  
**Senate Committee on Ways & Means**  
**House Committee on State Government**

**Background:** The Governor and the Office of Financial Management are required to review state boards and commissions, and in every odd-numbered year submit to the Legislature a recommended list of boards and commissions to be terminated or consolidated. During the 1997-1999 biennium, Washington had 335 boards and commissions, down from a high of 569 during the 1991-1993 biennium. Each board or commission operates in conjunction with and reports to a particular state agency or to the Governor's office.

**Summary:** Eighteen boards, commissions, and committees are either repealed or abolished. These boards, commissions, and committees are: Department of Social and Health Services Regional Advisory Committees, the Department of Social and Health Services State Advisory Committee, the Washington State Job Training Coordinating Council, the Ecology Regional Citizen's Advisory Committees - Model Toxic Control Act, Sea Urchin and Sea Cucumber Advisory Review Board, Coastal Crab Advisory Review Board, Ocean Pink Shrimp Advisory Review Board, Shorelines Guidelines Commission, Wetlands Mitigation Banking Advisory Team, and the Commission on Legislative Building Preservation and Renovation.

**Votes on Final Passage:**

Senate	49	0	
House	92	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 1, 2001

### **Roll Calls on a Bill: 5401 (2001-02)**

Brief Description: Eliminating boards and commissions.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5401  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 30  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5401  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 31  
Transcript No.: 87  
Date: 04-04-2001

Yeas: 92 Nays: 00 Absent: 00 Excused: 06

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Carrell, Doumit, Kirby, Morris, Romero, Veloria

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### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5401  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 18  
Transcript No.: 99  
Date: 04-16-2001

Yeas: 46 Nays: 00 Absent: 01 Excused: 02

Voting yea: Senators Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Absent: Senator Benton  
Excused: Senators Deccio, Kline



## **SUBSTITUTE SENATE BILL 5637**

### *Watershed health monitoring and assessment*

#### **PROGRAM IMPACTS**

This legislation calls for the establishment of a “monitoring oversight committee”, chaired by the Director of the Salmon Recovery Office, and comprised of the Directors or designated representatives of the following agencies:

- (1) The Salmon Recovery Office;
- (2) The Department of Ecology;**
- (3) The Department of Fish and Wildlife;
- (4) The Conservation Commission;
- (5) The Puget Sound Action Team;
- (6) The Department of Natural Resources;
- (7) The Independent Science Panel;
- (8) The Salmon Recovery Funding Board; and
- (9) Treaty Indian Tribes

The committee shall:

- (a) Define the monitoring goals, objectives, and questions that must be addressed as part of a comprehensive statewide salmon recovery monitoring and adaptive management framework;
- (b) Identify and evaluate existing monitoring activities for inclusion in the framework, while ensuring data consistency and coordination and the filling of monitoring gaps;
- (c) Recommend statistical designs appropriate to the objectives;
- (d) Recommend performance measures appropriate to the objectives and targeted to the appropriate geographical, temporal, and biological scales;
- (e) Recommend standardized monitoring protocols for salmon recovery and watershed health;
- (f) Recommend procedures to ensure quality assurance and quality control of all relevant data;
- (g) Recommend data transfer protocols to support easy access, sharing, and coordination among different collectors and users;
- (h) Recommend ways to integrate monitoring information into decision making;
- (i) Recommend organizational and governance structures for oversight and implementation of the coordinated monitoring framework;
- (j) Recommend stable sources of funding that will ensure the continued operation and maintenance of the state's salmon recovery and watershed health monitoring programs, once established; and
- (k) Identify administrative actions that will be undertaken by state agencies to implement elements of the coordinated monitoring program

## RESOURCE IMPACTS

\$1.5 million is allocated to the Interagency Committee for Outdoor Recreation's (IAC) operating budget for the 01-03 Biennium. The source of this funding is \$500,000 each from the State Toxics Control Account, the Water Quality Account, and from the General Fund – State. It is expected that the IAC will allocate funding to Ecology to fund 1.0 FTE for Ecology to participate in this effort.

## WORK PLAN

Ecology will be an active participant on the monitoring oversight committee and engage with other state agencies and relevant Ecology programs as the monitoring goals, objectives, and questions are identified and addressed as part of a comprehensive statewide salmon recovery monitoring and adaptive management framework. Identification and evaluation of existing monitoring activities for inclusion in the framework will also be conducted. Also, Ecology will collaborate with other agencies identified in this legislation on coordinating water quality and water quantity monitoring issues in watersheds statewide.

The "monitoring oversight committee", by June 30, 2002, shall provide an action plan to the Governor, the Senate, and the House of Representatives for achieving a comprehensive watershed-related monitoring program. This action plan shall make recommendations based upon a goal of completing enhanced coordination and modification of existing programs by June 30, 2007. In addition, the monitoring oversight committee may make recommendations to individual agencies that improve coordination among monitoring activities.

The Environmental Assessment Program (EAP) has assigned the proposed hiring plan to Steve Butkus, a senior scientist in EAP's Environmental Monitoring and Trends Section.

**Contact person:** Steve Butkus - Environmental Assessment Program  
Phone: (360) 407-6742; E-mail: [stbu461@ecy.wa.gov](mailto:stbu461@ecy.wa.gov)

# FINAL BILL REPORT

## SSB 5637

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C 298 L 01

Synopsis as Enacted

**Brief Description:** Creating a program of watershed health monitoring and assessments.

**Sponsors:** Senate Committee on Natural Resources, Parks & Shorelines  
(originally sponsored by Senators Jacobsen, Regala, Costa and Oke).

**Senate Committee on Natural Resources, Parks & Shorelines**  
**House Committee on Natural Resources**  
**House Committee on Appropriations**

**Background:** The state of Washington has begun a long-term process for restoration of watersheds and the naturally occurring species that inhabit them. A diverse range of watershed restoration projects are currently underway, but no consistent evaluation or monitoring approach has been developed.

The independent science panel, formed through the salmon restoration framework legislation, has provided recommendations for monitoring of salmon restoration and watershed health.

**Summary:** A monitoring oversight committee is established to review the progress of watershed-related monitoring and make recommendations. Members of the monitoring oversight committee include: the Salmon Recovery Office, the Department of Ecology, the Department of Fish and Wildlife, the Conservation Commission, the Puget Sound Action Team, the Department of Natural Resources, the Department of Transportation, and the Interagency Committee for Outdoor Recreation. Specific monitoring objectives are established: clear goals, valid statistical designs, meaningful performance measures, standardized protocols, data quality control, sharing of data, stable funding, and integration of monitoring into decision-making processes.

The monitoring oversight committee is co-chaired by the director of the Salmon Recovery Office and the chair of the Salmon Recovery Funding Board. An interim progress report is due from the monitoring oversight committee on March 1, 2002.

A four-member steering committee is created. The steering committee is composed of two Senate members appointed by the President of the Senate, and two members appointed by the House of Representatives Co-Speakers.

The monitoring oversight committee must brief the steering committee on a quarterly basis.

Other entities involved in salmon recovery and watershed restoration must consider monitoring objectives specified in the legislation.

A null and void clause is included.

**Votes on Final Passage:**

Senate	49	0	
House	93	0	(House amended)
Senate			(Senate refused to concur)
House	92	0	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 22, 2001



### **Roll Calls on a Bill: 5637 (2001-02)**

Brief Description: Creating a program of watershed health monitoring and assessments.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5637  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 70  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5637  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 5  
Transcript No.: 89  
Date: 04-06-2001

Yeas: 93 Nays: 00 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Cody, Dunn, Fromhold, McMorris, Ogden

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**2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5637  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 10  
Transcript No.: 101  
Date: 04-18-2001

Yeas: 92 Nays: 00 Absent: 00 Excused: 06

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Simpson, Skinner, Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard

Excused: Representatives Kessler, Morris, Poulsen, Sehlin, Sommers, H., and Speaker Chopp

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5637  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 13  
Transcript No.: 102  
Date: 04-19-2001

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senator Kline

## **SUBSTITUTE SENATE BILL 5910**

*Regarding temporary nonuse of a water right*

### **PROGRAM IMPACTS**

This bill does not require the Department of Ecology to do anything, rather it enacts new policies and criteria relating to the determination of whether a water user has or has not relinquished a water right or portion thereof due to non-use. The policy change will have an indirect effect on the work of the Department as it evaluates water rights in general adjudications and in the permitting context.

### **RESOURCE IMPACTS**

Ecology did not request nor did it receive any new revenue or resources to implement the bill. SSB 5910 institutes changes in policy and does not directly create any additional work for the Department. The bill could marginally reduce overall workload in the future by clarifying whether several common conditions constitute “good cause” for non-relinquishment.

### **WORK PLAN**

Ecology will implement SSB 5910 through the positions it takes regarding relinquishment in the future, primarily in general water rights adjudications and through the permit process. No immediate change will occur because the bill is apparently prospective only (does not apply retroactively because it does not so declare that to be the intent of the Legislature). Non-use of water commencing on the effective date of the bill would be subject to the new provisions. No hiring of staff will occur.

**Contact person:** Ken Slattery – Water Resources Program  
Phone: (360) 407-6603; E-mail: kshw461@ecy.wa.gov

# FINAL BILL REPORT

## SSB 5910

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C 240 L 01

Synopsis as Enacted

**Brief Description:** Regarding temporary nonuse of a water right.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Fraser and Honeyford).

### **Senate Committee on Environment, Energy & Water**

**Background:** Under current law, if a person abandons a water right, or, if a person voluntarily fails, without sufficient cause, to use a water right for five successive years, the water right reverts back to the state. Abandonment is a common law doctrine, and it requires both the intent to abandon and the actual nonuse of a water right, although long periods of nonuse raise a rebuttable presumption of intent to abandon. Voluntary failure, without sufficient cause, to use a water right for five successive years is a standard established by the state's relinquishment statute. Circumstances that are considered sufficient cause are also established by the statute and include nonuse as a result of drought or other unavailability of water and of the operation of legal proceedings, among others. The state Supreme Court has construed the statutory provisions relating to sufficient cause narrowly. Voluntary failure is not defined in the statute. Webster's Dictionary defines "voluntary" as being without compulsion, on purpose, or by choice.

**Summary:** Sufficient cause for nonuse of water includes temporarily reduced need for irrigation due to weather conditions, including precipitation and temperature, so long as facilities are maintained for use of the full amount of the water right. Weather conditions must warrant reduction in water use.

Sufficient cause for nonuse also includes a contract or agreement to buy back electricity needed to use water for irrigation; conservation of water under the Yakima River Basin Water Enhancement Project, so long as the water is reallocated as required by the project; use of transitory return flows, if these are measured or reliably estimated using a methodology accepted by the Department of Ecology; and crop rotation. Crop rotation is defined as temporary change in type of crop as a result of generally recognized farming practices.

**Votes on Final Passage:**

Senate	37	10	
House	94	0	(House amended)
Senate	42	0	(Senate concurred)

**Effective:** May 11, 2001

### **Roll Calls on a Bill: 5910 (2001-02)**

Brief Description: Regarding temporary nonuse of a water right.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5910  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 40  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 37 Nays: 10 Absent: 00 Excused: 02

Voting yea: Senators Benton, Brown, Carlson, Finkbeiner, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Long, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, West, Winsley, Zarelli  
Voting nay: Senators Constantine, Costa, Eide, Fairley, Franklin, Kline, Kohl-Welles, McAuliffe, Swecker, Thibaudeau  
Excused: Senators Deccio, McCaslin

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5910  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 7  
Transcript No.: 95  
Date: 04-12-2001

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Edmonds, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp  
Excused: Representatives Barlean, Dunshee, Kirby, Sehlin

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**2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5910  
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE  
Item No.: 16  
Transcript No.: 101  
Date: 04-18-2001

Yeas: 42 Nays: 00 Absent: 00 Excused: 07

Voting Senators Benton, Carlson, Constantine, Costa, Deccio, Eide, Fairley,  
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Honeyford,  
Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe,  
McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Regala,  
Roach, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker,  
Thibaudeau, West, Winsley

Excused: Senators Brown, Haugen, Hochstatter, Rasmussen, Rossi, Snyder, Zarelli





## **ENGROSSED SUBSTITUTE SENATE BILL 5919**

*Providing for the assessment of potential site locations for water storage projects*

### **PROGRAM IMPACTS**

The bill is both a policy statement regarding storage of water as a potential water supply solution and an authorization to watershed planning units to assess sites for water storage of various types. The bill does not direct Ecology to do anything specific. However, the bill is closely related to a provision in the budget providing funding for planning units (provided through the Department) to carry out assessments of several optional planning elements, including storage. In addition, Ecology is generally directed by the watershed management laws to provide technical assistance to watershed units.

### **RESOURCE IMPACTS**

The biennial operating budget includes \$2.1 million for Ecology to provide grants to watershed planning units to carry out additional assessments of optional plan elements including instream flow, water quality and storage. Of these optional elements the budget requires Ecology to give instream flow the highest priority for the use of the additional funds. Consequently, depending on how many planning units request funding for various elements there may or may not be funds available for storage site assessments. The Department also anticipates that it may be called upon to participate in or provide technical assistance regarding storage site assessments. The Department received a small add in the budget for providing enhanced technical assistance to planning units but not a sufficient amount to hire additional expertise on water storage. Technical assistance provided to planning units will have to be absorbed primarily by Ecology's Water Resources Program.

### **WORK PLAN**

Ecology will accept grant applications for optional elements during summer and fall 2001. Ecology will also update the planning guidelines to cover optional elements including storage by late fall 2001. No hiring is planned with regard to the bill.

**Contact person:** Melissa Gildersleeve, Shoreland Environmental Assistance Program

Phone: (360) 407-6548; E-mail: [mgil461@ecy.wa.gov](mailto:mgil461@ecy.wa.gov)

# FINAL BILL REPORT

## SSB 5919

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C 19 L 01 E2

Synopsis as Enacted

**Brief Description:** Providing for the assessment of potential site locations for water storage projects.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Morton, Fraser, Honeyford and Rasmussen).

**Senate Committee on Environment, Energy & Water**  
**House Committee on Agriculture & Ecology**

**Background:** Last year the Legislature created a task force to examine the role of increased water storage in providing water supplies to meet the needs of fish, population growth, and economic development, and to enhance the protection of people's lives and their property and the protection of aquatic habitat through flood control facilities.

Watershed planning groups are required to address water quantity in the management area by undertaking an assessment of water supply and use, in the management area, and develop strategies for future use. The task force recommended the state should help the local watershed planning groups in assessing potential site locations for water storage projects.

**Summary:** The watershed planning groups may identify potential storage site locations for water storage projects. The potential site locations may be for either large or small projects and cover the full range of possible alternatives. The possible alternatives include off-channel storage, underground storage, the enlargement or enhancement of existing storage, and on-channel storage.

### **Votes on Final Passage:**

Senate	49 0
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### Second Special Session

Senate	43 0
House	83 0

**Effective:** September 20, 2001

### **Roll Calls on a Bill: 5919 (2001-02)**

Brief  
Description: Providing for the assessment of potential site locations for water storage projects.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5919  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 7  
Transcript No.: 60  
Date: 03-08-2001

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting  
yea: Senators Benton, Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

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#### **2001 2nd Special Session**

Chamber: SENATE  
Bill No.: SSB 5919  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 8  
Transcript No.: 3  
Date: 06-06-2001

Yeas: 43 Nays: 00 Absent: 00 Excused: 06

Voting  
yea: Senators Carlson, Constantine, Deccio, Eide, Fairley, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley

Excused: Senators Benton, Brown, Costa, Finkbeiner, Johnson, Zarelli

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#### **2001 2nd Special Session**

Chamber: HOUSE  
Bill No.: SSB 5919  
Description: FINAL PASSAGE  
Item No.: 6  
Transcript No.: 17

Date: 06-20-2001

Yeas: 83 Nays: 00 Absent: 00 Excused: 15

Voting  
yea: Representatives Alexander, Anderson, Armstrong, Barlean, Benson, Berkey, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Clements, Cody, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Hankins, Hatfield, Hunt, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Ogden, Pearson, Pflug, Poulsen, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Ahern, Ballasiotes, Boldt, Chandler, B., Chandler, G., Conway, Edmonds, Eickmeyer, Haigh, Hurst, O'Brien, Pennington, Quall, Schindler, Simpson

## **SUBSTITUTE SENATE BILL 5925**

*Reusing waste water derived from food processing*

### **PROGRAM IMPACTS**

This bill extends certain existing provisions governing reclaimed water by municipal corporations to private entities proposing to reuse agricultural industrial (food processing) process water. The process wastewater from agricultural industrial discharges must be adequately and reliably treated for beneficial agricultural use. The industry has the exclusive right to the treated process wastewater. Permission to treat and reuse such water can be granted under a state waste discharge permit issued by Ecology. Normal water right application requirements are waived, however, existing water rights using the same source of water or downstream from the plant's discharge must not be impaired.

### **RESOURCE IMPACTS**

No new revenue or resources were requested or provided to implement the bill. Implementation will continue to be done within the regional offices. The Department already receives an appropriation to encourage water conservation and water reuse. These resources will continue to provide assistance to regions upon request. Industries applying for a permit will be charged normal water quality permit fees to defray the cost of permitting.

### **WORK PLAN**

Ecology is holding meetings with the industry to discuss implementation of this bill. Following these meetings, Ecology may update its guidance documents to include agricultural industrial process water treatment and reuse. Consideration of the use of such water will be primarily incorporated into the existing water quality permitting process. No new hiring is planned to implement the legislation. Existing Water Quality Program staff are already working on implementation.

**Contact person:** Kirk Cook - Water Quality Program  
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# FINAL BILL REPORT

## SSB 5925

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C 69 L 01  
Synopsis as Enacted

**Brief Description:** Reusing waste water derived from food processing.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Jacobsen, Honeyford, Fraser, Rasmussen and Morton).

**Senate Committee on Environment, Energy & Water**  
**House Committee on Agriculture & Ecology**

**Background:** Existing law establishes standards, procedures, and guidelines for use of reclaimed water that is derived from sewage from a wastewater treatment system.

**Summary:** "Agricultural industrial process water" is treated food product processing water and can be used for irrigation and other agriculture-related uses, including construction and maintenance. The water is used under a wastewater discharge permit. If there is significant health risk associated with the use, the Department of Health is consulted. The generator retains the exclusive right to the water and is not subject to additional water right permitting requirements. The use shall not impair existing water rights within the generator's source of supply. Water rights that substitute use of reclaimed water are not relinquished.

**Votes on Final Passage:**

Senate	47	2
House	97	0

**Effective:** July 22, 2001

### **Roll Calls on a Bill: 5925 (2001-02)**

Brief Description: Reusing waste water derived from food processing.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 5925  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 41  
Transcript No.: 65  
Date: 03-13-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting  
yea: Senators Benton, Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senators Deccio, McCaslin

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#### **2001 Regular Session**

Chamber: HOUSE  
Bill No.: SSB 5925  
Description: FINAL PASSAGE  
Item No.: 28  
Transcript No.: 88  
Date: 04-05-2001

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting  
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Edwards, Eickmeyer, Erickson, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representative McMorris



## **SUBSTITUTE SENATE BILL 6012**

*Allowing customary agricultural related burning in an urban growth area*

### **PROGRAM IMPACTS**

Substitute Senate Bill 6012 codifies existing policy and regulations of the Department of Ecology. No rule amendments or program modifications are necessary.

### **RESOURCE IMPACTS**

Neither revenue nor resources are provided to implement the bill. Ecology will be communicating with interested parties and permitting agencies about the bill and its implications. This educational effort is expected to be small and produce minimal resource impact on the Department.

### **WORK PLAN**

- Notify permitting agencies, agricultural associations and other interested parties about the passage of SSB 6012. Provide bill copies and brief description. Begin in August 2001.
- Provide on-going assistance and information to permitting agencies, environmental groups and growers on agricultural burning and the effect of SSB 6012. Begin in August 2001.

**Contact person:** Stu Clark - Air Quality Program  
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# FINAL BILL REPORT

## SSB 6012

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C 12 L 01 E1

Synopsis as Enacted

**Brief Description:** Allowing customary agricultural related burning in an urban growth area.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Honeyford, Rasmussen, Hochstatter, Hale and Carlson).

**Senate Committee on Environment, Energy & Water**  
**House Committee on Agriculture & Ecology**

**Background:** Outdoor burning is the burning of any material in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

Outdoor burning is not allowed in: (1) any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or (2) urban growth areas, except for certain cities having a population of less than 5,000 people which are exempt until December 31, 2006. Outdoor burning may be allowed for managing storm or flood-related debris.

Agricultural burning is the burning of vegetative debris from an agricultural operation as necessary for disease or pest control, crop propagation or rotation, and may include the burning of fields, prunings, weeds, irrigation and drainage ditches, fence rows or other essential pathways. A permit for agricultural burning may be issued when it is reasonably necessary to carry out the enterprise. Burning is "reasonably necessary" when it meets the criteria of the best management practices and no practical alternative is reasonably available. Agricultural burning permits are issued by the local air authority, the Department of Ecology, or by delegated conservation districts, counties, fire districts or fire protection agencies. Permits may be issued in non-attainment and urban growth areas.

**Summary:** Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities is allowed within the urban growth area if the burning is not conducted during air quality episodes or when there has been an "impaired air quality" determination, and the agricultural activities preceded the designation as an urban growth area.

**Votes on Final Passage:**

Senate        42 6

First Special Session

Senate        47 0

House        96 0

**Effective:** August 23, 2001

### **Roll Calls on a Bill: 6012 (2001-02)**

Brief Description: Allowing customary agricultural related burning in an urban growth area.

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#### **2001 Regular Session**

Chamber: SENATE  
Bill No.: SSB 6012  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 31  
Transcript No.: 62  
Date: 03-10-2001

Yeas: 42 Nays: 06 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brown, Carlson, Constantine, Deccio, Finkbeiner, Fraser, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli  
Voting nay: Senators Costa, Eide, Fairley, Franklin, Kohl-Welles, Prentice  
Excused: Senator Gardner

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#### **2001 1st Special Session**

Chamber: SENATE  
Bill No.: SSB 6012  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 9  
Transcript No.: 22  
Date: 05-16-2001

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting yea: Senators Brown, Carlson, Constantine, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley  
Excused: Senators Benton, Zarelli

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#### **2001 1st Special Session**

Chamber: HOUSE  
Bill No.: SSB 6012

Description: FINAL PASSAGE  
Item No.: 5  
Transcript No.: 30  
Date: 05-24-2001

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting      Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes,  
yea:          Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,  
Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox,  
Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee,  
Edmonds, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant,  
Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney,  
Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin,  
McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris,  
Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen,  
Quall, Reardon, Roach, Romero, Ruderman, Santos, Schindler, Schmidt, D.,  
Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump,  
Talcott, Tokuda, Van Luven, Veloria, Wood, Woods, Speaker Ballard, and  
Speaker Chopp

Excused: Representatives Edwards, Rockefeller



## **ENGROSSED SENATE BILL 6188**

*Streamlining the environmental permit process for transportation projects*

### **PROGRAM IMPACTS**

ESB 6188 is a comprehensive measure, intended to bring immediate focus and attention to the need for coordination, integration, and streamlining of multi-jurisdictional environmental permitting processes for transportation projects. A comprehensively empanelled Transportation Permit Efficiency and Accountability Committee (TPEAC) is created to bring this focus, as well as to provide necessary leadership, oversight, and advocacy. Discrete TPEAC activities are oriented toward:

- One-stop permit decision-making;
- Coordination and integration of regulatory requirements (e.g., in the aquatic environment);
- Concise environmental standards (e.g., stormwater mitigation);
- Delegation of selected permit drafting;
- Delegation of selected federal permit authorities;
- Twice-yearly legislative reporting;
- General permits and general permit processes;
- Programmatic consultation processes;
- Pilot projects and pilot programs;
- Watershed based mitigation trading;
- Dispute resolution;
- Compliance auditing;
- Identification of transportation projects of statewide significance;
- Consolidation of local permit processes;
- Identification of permit streamlining opportunities;
- Examination and analysis of environmental investments; and
- Cost reimbursement alternatives.

### **RESOURCE IMPACTS**

#### **Important Notes:**

- To date no resources have been provided to Ecology to implement ESB 6188. It is Ecology's expectation that resources to implement ESB 6188 will be provided through an agreement between the Washington State Department of Transportation and Ecology.

- Ecology identified a fiscal note impact of 7.0 FTEs (\$1,486,424) for the 2001-03 biennium to fully and expeditiously implement ESB 6188, i.e., support the TPEAC in its examinations and activities, as well as actively and directly engage in the pilot project permit process, compliance auditing process, qualification and training process, and transportation projects of statewide significance permit process. Ecology FTE and resource impacts are identified primarily for Ecology's 401, 402, SEPA, shoreline, water quality, stormwater, wetland, CZM, and permit assistance functional areas.

## **WORK PLAN**

Ecology will develop and finalize an Ecology-specific workplan, timeline, and hiring plan to support the TPEAC, as well as work in partnership with WSDOT and the other environmental and natural resources agencies to implement ESB 6188, following: (a) convening of the first meeting of the TPEAC; (b) reaching of an agreement by the TPEAC on its workplan, schedule, and activities for the 2001-03 biennium; and (c) resolution of the issue of lack of funding provided to Ecology to implement ESB 6188.

**Contact person:** Terry Swanson, Shoreland Environmental Assistance Program, Ecology WSDOT Liaison  
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# FINAL BILL REPORT

## ESB 6188

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C 2 L 01 E1

Synopsis as Enacted

**Brief Description:** Streamlining the environmental permit process for transportation projects.

**Sponsors:** Senators Prentice, Swecker, Haugen, McDonald, Gardner, Horn, Rasmussen and Deccio.

**Senate Committee on Transportation**  
**House Committee on Transportation**

**Background:** The Legislature and the Governor formed the Blue Ribbon Commission on Transportation in 1998 to assess the local, regional, and state transportation system; ensure that current and future money is spent wisely; make the system more accountable and predictable; and prepare a 20-year plan for funding and investing in the transportation system. The commission consisted of 46 members representing business, labor, agriculture, tribes, government, ports, shipping, trucking, transit, rail, environmental interests, and the general public.

The commission made 18 recommendations to the Governor and the Legislature. Recommendation 11 directs the Washington State Department of Transportation (WSDOT) to work toward a goal of one-stop environmental permitting for transportation projects.

**Summary:** The following projects are eligible for a streamlined environmental permitting process: pilot projects designated in this act, transportation projects of statewide significance, and projects selected for a programmatic approach by the transportation permit efficiency and accountability committee created in this act.

Transportation projects of statewide significance means a surface transportation project or combination of projects, that cross multiple city or county jurisdictional boundaries or connects major destinations in support of the economy. These projects are designated by the WSDOT and must be approved by the Senate and House Transportation Committees.

The Transportation Permit Efficiency and Accountability Committee (TPEAC) is created. The TPEAC must consist of the following nine voting members: four legislators, a Secretary of WSDOT designee, a Director of Department of Fish and Wildlife designee, a Director of Department of Ecology designee, an

Association of Washington Cities designee, and a Washington State Association of Counties designee. The eight nonvoting members of the committee include representatives from the construction industry, environmental interests, labor, and tribes. The WSDOT must provide administrative assistance to the TPEAC.

The TPEAC must assess the application of current environmental standards and integrate those standards where appropriate. The TPEAC must designate three pilot projects and use a streamlined process for permitting those projects. The TPEAC must also develop a list of streamlining opportunities and make recommendations to the Legislature on necessary statutory or administrative changes. Finally, the TPEAC must implement a streamlined permitting process for transportation projects of statewide significance based on the integrated standards developed by the committee. Committee action may not override existing statutes, regulations or local ordinances. The committee must make twice yearly reports to the Legislature.

Local governments have three options for participating in the streamlined process. If a local government elects to be a participating entity, a representative from the local government will be part of the coordinated review of the project. If a local government elects to be an assigning entity, the local government will enter into an agreement with the department to define the local permit requirements that must be met. If a local government elects not to participate in the coordinated process, the department will conduct the local permitting process and must comply with the provisions of the city and county ordinances.

An interim process for permitting transportation projects of statewide significance applies until the TPEAC adopts integrated standards and best management practices. This process is optional for the department and specifies a six-step process including early involvement of affected agencies, identification of permit requirements, selection of preferred alternatives, coordinated reviews and hearings, and timelines for completing reviews and decisions.

This legislation expires March 31, 2003.

#### **Votes on Final Passage:**

##### First Special Session

Senate	39 3
House	96 0

**Effective:** May 29, 2001

### **Roll Calls on a Bill: 6188 (2001-02)**

Brief Description: Streamlining the environmental permit process for transportation projects.

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#### **2001 1st Special Session**

Chamber: SENATE  
Bill No.: ESB 6188  
Description: 3RD READING & FINAL PASSAGE  
Item No.: 8  
Transcript No.: 28  
Date: 05-22-2001

Yeas: 39 Nays: 03 Absent: 00 Excused: 07

Voting yea: Senators Brown, Deccio, Eide, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kline, Long, McAuliffe, McCaslin, Morton, Oke, Parlette, Patterson, Prentice, Rasmussen, Regala, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, West, Winsley  
Voting nay: Senators Constantine, Kohl-Welles, Thibaudeau  
Excused: Senators Benton, Carlson, Costa, Fairley, McDonald, Roach, Zarelli

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#### **2001 1st Special Session**

Chamber: HOUSE  
Bill No.: ESB 6188  
Description: FINAL PASSAGE  
Item No.: 3  
Transcript No.: 30  
Date: 05-24-2001

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, B., Chandler, G., Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edmonds, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley, Jarrett, Kagi, Keiser, Kenney, Kessler, Kirby, Lambert, Lantz, Linville, Lisk, Lovick, Marine, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, O'Brien, Ogden, Pearson, Pennington, Pflug, Poulsen, Quall, Reardon, Roach, Romero, Ruderman, Santos, Schindler, Schmidt, D., Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, H., Sump, Talcott, Tokuda, Van Luven, Voloria, Wood, Woods, Speaker Ballard, and Speaker Chopp

Excused: Representatives Edwards, Rockefeller